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**Multilingual and intercultural communication in and  
beyond the UK asylum process:  
a linguistic ethnographic case study of legal advice-  
giving across cultural and linguistic borders**

**Judith Theresa Reynolds**

submitted for the degree of Doctor of Philosophy

School of Education

Durham University



August 2018





**Multilingual and intercultural communication in and beyond the UK asylum process: a linguistic ethnographic case study of legal advice-giving across cultural and linguistic borders.**

Judith Theresa Reynolds

**Abstract**

This thesis investigates how asylum applicants and refugees in the UK, and legal professionals, communicate multilingually and interculturally within legal advice meetings concerning the processes of applying for asylum and for refugee family reunion. The thesis addresses the important question of how English-speaking immigration legal advisors negotiate understanding with clients from a range of linguistic and cultural backgrounds in order to deliver crucial legal advice and support.

Adopting a critical social constructionist perspective on language, culture, and communication, the thesis explores how a diverse range of linguistic, languacultural and discursive resources are employed to communicate within legal advice-giving. The thesis offers an in-depth analysis of legal-lay communication in the co-operative professional mediation setting of legal advice, contrasting with, and complementing, the existing literature on multilingual and intercultural communication in institutional gatekeeping contexts.

The research takes a linguistic ethnographic case study approach, applying methodological perspectives on researching multilingually and theoretical perspectives from institutional ethnography. It combines ethnographic fieldwork within an advice service offering asylum and refugee legal advice with linguistic analysis of observations and audio recordings of advice meeting interactions. The linguistic analysis combines the micro-analytic tools of interactional sociolinguistics with a communicative activity type analysis of the discursive structuring of legal advice interactions, and a transcontextual analysis of the range of texts entering into the interaction.

The thesis demonstrates how refugee and asylum legal advice interactions are contextually framed by legal institutional intertextual hierarchies, which constrain, but also provide resources for, the purposeful communication taking place. It also demonstrates how a flexibly applied communicative activity type structure functions as a discursive tool to support intercultural communication. The thesis contributes to the fields of intercultural communication studies and professional and legal communication studies, and responds to broader issues of language and social justice, and the linguistic accessibility of institutions.



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## **List of Abbreviations**

CA	conversation analysis
CAT	communicative activity type
DA	District Attorney
DE	data extract
DPSI	Diploma in Public Service Interpreting
FGM	female genital mutilation
GP	General Practitioner (medical doctor)
IAT	Immigration and Asylum Tribunal
ICO	Information Commissioner's Office
LE	linguistic ethnography
OISC	Office of the Immigration Services Commissioner
MP	Member of Parliament
NGO	Non-Governmental Organization
NRPSI	National Register of Public Service Interpreters
RA	research assistant
SAR	subject access request
SRA	Solicitors Regulation Authority
UK	United Kingdom of Great Britain and Northern Ireland
UKVI	UK Visas and Immigration
UN	United Nations

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# **Chapter One: Introduction**

This study investigates how immigration lawyers in the UK and their asylum seeker and refugee clients communicate with each other during legal advice meetings about asylum or refugee family reunion. In this diverse intercultural and multilingual context, it is critically important that communication is effective, since there are two human rights issues at stake. The first is the safety and security of individuals and their families, for whom the grant or refusal of refugee status or leave to enter the UK determines whether they will establish a safe future together in a new country, or will potentially become or remain victims of human rights violations in their country of origin. The second, interlinked with the first, is the question of access to justice and ensuring that due process is followed in the implementation of the law. Good legal advice, delivered in an understandable way, can be a decisive factor in the fight to obtain refugee status and reunite with family members. In this context, language and communication underpin human rights and social justice (Piller, 2011).

## **1.1 The asylum and refugee family reunion process in the UK**

Securing refugee status and then reuniting with family members can be a long and difficult process. As an opening to the thesis, and in order to contextualize and situate the legal advice communication that is the focus of this study, I provide in this section a brief introduction to the asylum and refugee family reunion process in the UK and the legal advisor's role in this.

### **1.1.1 Applying for asylum**

Individuals seeking asylum have fled their own country because they have suffered persecution, and/or they fear persecution. Under Article 1A of the UN Refugee Convention (see Appendix N), individuals are entitled to apply for refugee status in a different country if the persecution that has been suffered or is feared is on one of five specified grounds (race; religion; nationality; membership of a particular social group; or political opinion), and if there is a lack of state protection against such persecution within the individual's country of origin. Sometimes this is administered by the United Nations High Commissioner for Refugees (UNHCR) through resettlement programmes for those residing in refugee camps having fled conflict zones. The majority of UK applicants for asylum, however, make an application in the UK, which is processed

by UK Visas and Immigration (UKVI), the government agency that enforces immigration law on behalf of the UK Home Office.

Applicants make a claim for asylum either on arrival at a port of entry, or by presenting themselves in person at UKVI's asylum screening unit in Croydon, London, having already entered the country legally using a visa, or illegally (UK Visas and Immigration, 2016). The initial application process consists of two interviews with UKVI. The first, an initial screening interview at the point of claim at the port of entry or at the asylum screening unit, gathers basic information and admits the individual into the asylum system. The second, which takes place usually a few weeks later, is a substantive interview with an interviewing officer at one of UKVI's interviewing centres, in which asylum applicants must give details of the basis of their fear of persecution. Interpreters (qualified, and working on a freelance agency basis) are arranged and paid for by UKVI where necessary. A written record of the questions and answers is made in English by the interviewing officer during the interview; this constitutes the official record of the interview, and a copy is given to the applicant at the end. The interview is only audio recorded if this is requested in advance.

Government-funded legal aid (under the Legal Aid, Sentencing and Punishment of Offenders Act, 2012) is available to pay for legal advice for clients making an initial asylum application in the UK, and some applicants seek legal advice from law firms or caseworkers dealing with immigration legal aid work before making initial contact with UKVI. Many, however, only seek legal help at a later stage in the process. This is highly dependent on the individual's support networks and prior knowledge about the system, although UKVI will check at the screening interview whether the applicant has a legal representative and if not will provide information about how to find one (UK Visas and Immigration, 2016). Legal aid funding does not extend to paying for legal representatives to attend the substantive interview, unless the applicant is a minor or otherwise vulnerable.

After the substantive interview, applicants have a five-day period in which to review the official interview record and respond to UKVI in writing with any objections or clarifications to this, and they must also provide any documentary evidence which was discussed and/or requested by UKVI during the interview. This is often done through a formal witness statement from the applicant prepared with the help of a legal representative. The interviewing officer at UKVI will then make a decision as to whether or not to grant asylum, and will confirm the decision in a letter to the applicant. It can take some time for a decision to be made, particularly where further evidence (e.g., medical reports) is needed. UKVI aims to make a decision within six months after the interview where the case is straightforward (UK Visas and Immigration, 2016). If there are complexities, an initial decision can take much longer, even years, to be issued. The credibility of

the applicant's account (see Appendix A) is a central issue in deciding most asylum claims, and timely legal support enables an applicant to put forward a more credible account to UKVI (Farrell, 2012; Good, 2009).

In some limited circumstances (beyond the scope of this summary to cover), applicants can be held in immigration detention whilst their application is being processed. Where not detained, applicants are granted temporary residence in the UK under restricted living conditions. Applicants are housed and provided with a basic living allowance (at the time of fieldwork, around £36 per week per individual adult) by the UK government, are prevented from working and are required to report regularly to regional UKVI reporting centres (weekly, monthly, or sometimes less frequently depending on the individual's circumstances). Life for asylum applicants is precarious and insecure, living with reduced means; reduced rights; often a lack of information about how long they will have to wait for a decision; and the ever-present possibility of refusal and consequent deportation back to the country of origin, or of being detained when they next report to UKVI.

### **1.1.2 Asylum process after a refusal**

After a refusal, an applicant normally has some appeal rights. He or she may also be able to submit a fresh claim if new evidence has come to light. A summary diagram and a more detailed description of these further stages of the asylum legal process, can be found at Appendix A. Whether or not an applicant can obtain legal assistance at these stages of an asylum process depends heavily on the strength of the case.

#### **Appeals against refusal**

If applicants are refused asylum, there is usually a right of appeal against the refusal decision to the First Tier Tribunal of the Immigration and Asylum Tribunal, subject to filing appeal papers and paying a Tribunal fee within 14 calendar days from receipt of the refusal letter. This leads to an appeal hearing at the Tribunal, at which UKVI and the applicant present arguments for and against upholding the refusal decision to an Immigration Judge. Legal aid is available to pay for legal advice and representation on an appeal only if the legal advisor can confirm that there is an over fifty per cent chance of success in challenging the decision. If this merits test is not met, applicants will have to either pay for legal assistance themselves; or find a legal representative willing to support them free of charge (*pro bono*); or apply without legal assistance. In a few cases, exceptional case legal aid funding may be available even if the case does not pass the merits test, but this must be justified by a lawyer in an extensive application, presenting a reasoned argument

as to why the case is exceptional. It is therefore sadly not uncommon to find applicants representing themselves, with no professional legal assistance, in asylum appeal processes.

Where an appeal to the First Tier Tribunal fails, further appeal rights to higher courts, and access to the Judicial Review procedure where other appeal rights have been exhausted, exist only in limited circumstances (see Appendix A), and the same funding issues apply.

### **Fresh claims**

A fresh claim is a new claim submitted by a person who has previously been refused asylum, based on evidence that is 'significantly different from the material that has previously been considered' (Immigration Rule 353, see Appendix N). Applicants must therefore find some significant, and previously unseen, new evidence supporting their asylum case in order to submit a fresh claim. A paper application must be prepared and delivered in person to UKVI's Further Submissions Unit in Liverpool. UKVI caseworkers will then assess the new material against the test of significant difference, and decide whether or not the application can be accepted as a fresh claim. Further details are provided in Appendix A. Legal aid funding for legal advice on submitting a fresh claim can be obtained, if the new evidence is judged to be strong enough.

At these later post-refusal stages of an asylum case, if the case is not under active review in some part of the system (i.e., in an appeal or fresh claim process), an applicant's housing and living allowances may be withdrawn and steps may be taken to deport the applicant to their country of origin. Even more so than in the initial stages, therefore, individuals' living situations and longer term futures in the UK are defined by precariousness, a situation that can only be addressed by engagement with legal processes, with or without legal advice.

#### **1.1.3 Refugee family reunion applications**

If individuals are successful in claiming asylum and are granted refugee status in the UK, Immigration Rules 352A-F (see Appendix N) allows refugees to apply for entry clearance visas permitting their spouse, and any dependent children under the age of eighteen, to travel to the UK to live with them (UN High Commissioner for Refugees, 2011). An application can also be made for a civil partner, or an unmarried partner with whom the refugee has been in a relationship for at least two years prior to leaving their country of origin. This is known as the refugee family reunion process. The criteria normally applying to UK entry visas for family members (payment of an application fee, proof that the sponsor can provide accommodation and has an income over a minimum level, and proof that the applicant has a set level of English language skills) do not apply to families of refugees.

To qualify for refugee family reunion under these rules, a family relationship between the parties dating back to before the refugee left his or her country of origin must be demonstrated. The application process (further details of which are provided in Appendix A) requires an application form for each family member to be completed online, giving a range of personal details, and documentation including identity documents, marriage and birth certificates, and documentary evidence of continuing contact between the family members, to be provided at a face to face appointment with UKVI representatives in the country where the family members are residing. Applications are then reviewed and a decision to grant or refuse visas is taken within three months. If an application is refused then reasons are provided, and applicants have a right to file an appeal against the refusal to the Immigration and Asylum Tribunal within 28 days following receipt of the refusal. They can also make a new application, and

British Red Cross research has highlighted the complexity of the application process and barriers arising for refugees, which are often compounded by language and/or literacy issues (Beswick, 2015; Law, 2013). Nevertheless, legal aid for advice on refugee family reunion applications was withdrawn by the UK government in 2013 pursuant to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 because it was considered a 'straightforward' (Beswick, 2015, p. 7) process. Some immigration legal advice providers will prepare applications, but for a fee, and this is unaffordable for many recently-granted refugees without work and living on state-funded benefits. As with late-stage asylum cases, funding for legal aid can be obtained only in exceptional circumstances by making an exceptional funding application, in itself not straightforward as noted above.

In this section 1.1, I have briefly summarised the asylum and refugee family reunion application processes. These are both complex, and require significant effort and engagement from everyone involved. An applicant's positioning is different in each of the two processes: on the one hand, asylum applicants' legal status and living conditions are precarious, and they live with the constant threat of being refused and deported back to their country of origin; on the other hand, refugees have a more secure personal situation, but they often in turn fear for the safety or security of their family members overseas. These differences notwithstanding, a similar need for professional legal advice on institutional processes exists at both stages of exercising the right to establish a safe and secure life in the UK together with close family.

## **1.2 Significance of the research**

Effective lawyer-client communication is considered important in the UK legal profession. The Competence Statement for Solicitors published by the Solicitors Regulation Authority (the

regulatory body for solicitors in England and Wales<sup>1</sup>) requires solicitors to 'establish and maintain effective and professional relations with clients, including...providing information in a way that clients can understand, taking into account their personal circumstances and any particular vulnerability.' (Solicitors Regulation Authority, 2015 para. C2). A recent comprehensive review of legal education and training in England and Wales (Legal Education and Training Review, 2013, p. 140) identifies a range of communication-related competencies required in legal services, including the cognitive competency of basic communication skills, relationship competencies of interpersonal communication skills and handling conflict, and affective/moral competencies of emotional intelligence, respect for clients and empathy. Without these, lawyers will not be able to do their job of advising clients on their legal rights.

The legal rights at stake in the context of this study, those of freedom from persecution and of respect for family and private life, are among the most important of all. However, neither the asylum nor the refugee family reunion process is straightforward: 66% of initial asylum applications, and 37% of refugee family reunion applications, were refused in 2016 (UK Immigration Statistics Oct-Dec 2016 - Asylum, 2017, UK Immigration Statistics Oct-Dec 2016 - Family, 2017). Expert legal advice from qualified legal professionals - usually either solicitors, or immigration caseworkers regulated by the Office of the Immigration Services Commissioner (OISC)<sup>2</sup> - can be crucial to applicant success.

A legal advice interaction with an asylum seeker or refugee client is by default a rich, complex, and possibly unpredictable intercultural and multilingual communicative encounter involving multiple borders. Whilst the legal state border, governed by UK immigration law and policed by UK Visas & Immigration (UKVI, the agency of the UK Home Office which administers immigration applications), is the overarching contextual focus, linguistic and cultural borders are also present

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<sup>1</sup> The UK is one sovereign state, and UKVI enforces UK asylum and refugee law on behalf of the UK government. However, the UK comprises three separate legal jurisdictions: England and Wales; Scotland; and Northern Ireland. Each jurisdiction has separate (albeit related) legal systems, and unless they have multiple qualifications, legal professionals are qualified to practice in one specific jurisdiction. The differences affect asylum and refugee law only at the later appeal stages of a case, but in this thesis the reader will see references to (the legal jurisdiction of) England and Wales, or (the country of) the UK, according to the specific context under discussion.

<sup>2</sup> Immigration legal advice is regulated in England and Wales, and must only be given by solicitors regulated by the Solicitors Regulation Authority (Solicitors Regulation Authority, 2017); immigration caseworkers regulated by the Office of the Immigration Services Commissioner (Office of the Immigration Services Commissioner, 2017); barristers regulated by the Bar Standards Board (Bar Standards Board, 2017); or legal executives regulated by the Chartered Institute of Legal Executives (Chartered Institute of Legal Executives, 2017). Solicitors and OISC caseworkers accounted for 88% of regulated individuals offering asylum advice as of January 2016 (Migration Work CIC et al., 2016).

within such advice interactions. Linguistically, the parties involved may have to find ways (with or without interpreters) of bridging between two different languages or language varieties, and also need to negotiate understanding across the sometimes significant divide between legal language featuring in processes and documentation, and lay terminology (Eades, 2010). Culturally, asylum applicants and refugees from around the world who bring their own range of cultural perspectives must engage with and fit into the institutional and legal cultures of UKVI and immigration legal advisors. The communicative gap between these different cultural and linguistic positions must be bridged for effective advice to be given and received.

Recent research, however, signals that asylum seekers and refugees face significant communication challenges in engaging with legal advice. An independent report commissioned by the Solicitors Regulation Authority (SRA) into the quality of legal services provided for asylum seekers (Migration Work CIC, Refugee Action, & Asylum Research Consultancy, 2016), identifies ‘understanding the legal process’ (p. 3) as a key barrier to effective use by clients of such services. The authors point out that understanding the legal process is more challenging for asylum seekers because of the complexity of the legal process; cultural and language barriers; individuals having to cope with arriving in and adjusting to a different country; individuals having to also deal with other issues such as loss and bereavement; and the likelihood of a greater ‘knowledge gap’ (p. 6) between lawyer and client, sometimes exacerbated by the client’s education and literacy levels. Highlighting that face to face meetings are a central means of communication between lawyers and asylum clients, the report comments that ‘it is the role of legal representative [sic] to adequately explain the process in a way asylum seekers can understand’. Although the authors identified examples of good communicative practices in and around advice meetings, they also noted that many asylum seekers interviewed for the report had ‘experienced difficulties in getting suitable explanations of the process from their legal advisers’ (p. 3), raising concerns about communication and the proper use of interpreters in this context. A subsequent SRA review (Solicitors Regulation Authority, 2016) corroborated these findings.

Similarly, a recent British Red Cross report examining the refugee family reunion application process (Beswick, 2015) found that the lack of English language skills was ‘a major impediment’ (p. 24) for refugee sponsor applicants. In a review of 92 different refugee family reunion applications, Beswick found that in 62 per cent of them, sponsors required English language support to complete the application. In 74 per cent of cases reviewed, one or more pieces of required documentation or evidence was missing. Where this is the case, or where family relationships are not straightforward (e.g. where step-children or adopted children are involved), Beswick found that a detailed witness statement or statutory declaration prepared with the



assistance of a legal professional is usually needed to support the application before it is accepted by UKVI. Discussing the imperative for most refugees to seek legal advice about their family reunion application, Beswick highlighted the complexities of the process, concluding that 'only qualified legal advisers can deal with and resolve the significant and diverse complexities experienced throughout the refugee family reunion process' (p. 7). A separate British Red Cross research report found that applicants overwhelmingly feel they need expert help with the process (Pike, Cowan, Field, & Potter, 2016).

Some scholarly attention has already been paid to how legal advice is given in an intercultural and multilingual context (Ahmad, 2007; Brooks & Madden, 2010; Bryant, 2001; Codó & Garrido, 2010; Cunningham, 1992; Tremblay, 2002; Trinch, 2001; Weng, 2005), but much of this literature (discussed in Chapter Two) is theoretical or conjectural and calls for empirical research. There are no studies focusing specifically on asylum and refugee legal advice. Few studies exist of how lawyers and clients actually negotiate understanding where cultural and linguistic differences exist between them, despite the importance of effective communication to delivering proper legal advice. This study aims to address this research gap, and explore how such advice interactions take place.

### **1.3 Aims, objectives, and research questions**

This study aims to explore the nature of communication within legal advice meetings about asylum and refugee law in the UK. The study has one key research objective, which is to explore how multilingual and intercultural communication takes place in legal advice meetings between refugees and asylum applicants to the UK, and their lawyers.

Substantively, I aim to investigate how immigration lawyers in the UK and their asylum and refugee family reunion clients communicate interculturally and multilingually in legal advice meetings. I define how I use these terms in section 1.5 below. The applied linguistic literatures have begun to address the question of how public-facing institutions and professionals respond to and engage with the range of inequalities (including economic, social, and linguistic, Canagarajah, 2017) that global migration brings, and the unpredictability inherent in superdiversity (previously unseen levels of diversity in migrant trajectories, identities, profiles, status, training, and capacities, Vertovec, 2007) (see e.g., Arnaut, Blommaert, Rampton, & Spotti, 2016; Duchêne, Moyer, & Roberts, 2013b; Slembrouck, 2011, 2015). With the exception of one study (Codó & Garrido, 2010), this issue has not yet been investigated in the context of legal

advice services<sup>3</sup>, which are situated outside of the institutional structures of law enforcement, but still within the broader institution of the law. I aim to explore how legal advisors deal with these issues of linguistic and cultural difference, diversity and inequality.

### **Research questions**

The investigations within this study are thus framed by one main research question, underpinned by three more detailed subsidiary research questions, as follows:

**Main RQ:** How do refugees and asylum applicants to the UK, lawyers, and interpreters communicate interculturally and multilingually with one another during legal advice meetings about asylum and family reunion law?

### **Subsidiary RQs:**

**RQ1.1** What linguistic, languacultural and discursive resources do each of the parties bring to the interaction in these meetings? How are these drawn upon and made use of in the interaction? What oral (linguistic and paralinguistic), written and other means of communication are used?

**RQ1.2** What contexts (social, cultural, political, institutional, spatial or geographical, historical, ideological, interactional role-related, and other) frame, and are relevant to, these meetings? How do they impact on the communication taking place?

**RQ1.3** How do individuals exert and resist control, and exercise agency through their communication in these meetings? Are power dynamics evident in the interaction in any other ways?

I explain the origin and importance of these research questions in Chapter Two (see in particular section 2.5).

Responding to these research questions requires a particular ontological, epistemological and methodological approach. Theoretically, I aim to adopt a critical social constructionist perspective on intercultural and multilingual communication, in line with recent work on the ‘sociolinguistics of mobility’ (Blommaert, 2003; see also Blommaert, Collins, & Slembrouck, 2005; Canagarajah, 2017; Piller, 2011; Risager, 2006). This perspective recognizes the interrelationship between ‘language’ (or more broadly, communication) and ‘culture’, the diversity inherent within these

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<sup>3</sup> although see forthcoming work from the AHRC-funded large grant project ‘Translation and Translanguaging – Investigating Linguistic and Cultural Transformations in Superdiverse Wards in Four UK Cities’ (<https://www.birmingham.ac.uk/generic/tlang/index.aspx>).

concepts, and their connection to social structures and power relations (Blommaert, 2005; Bourdieu, 1991). I draw on this perspective to consider the extent to which models of institutional interaction apply in communication within multilingual and intercultural legal advice meetings, and to critically examine the effects of institutional processes in this particular professional communication context. The study is therefore both a descriptive, and a critical, discourse analysis in a global mobility context.

Methodologically, since the phenomenon under study - communication in the specific context of asylum and refugee legal advice meetings - is complex and highly situated, I aim to use a qualitative case study approach (Grbich, 2007) employing linguistic ethnography (Rampton, 2007; see further Chapter Three, section 3.2) to carry out an in-depth exploration of communication in this setting. Examining individual cases of specific communication situations can lead to an understanding of the successes, problems and complexities of intercultural and multilingual interaction between individuals, which findings can then be compared with the findings of other studies, and if appropriate, transferred to other contexts and communication situations (Lincoln & Guba, 1985).

#### **1.4 Complexities and challenges of the study**

Numerous issues must be addressed in the research process if the research aims are to be achieved, and I comment here on a few of the major complexities. Firstly, in achieving the substantive aim of the study, it must be recognized that it is not possible even within a time- and resource-rich research project to investigate the communication habits of lawyers and clients in the UK engaged in asylum and refugee legal advice activities to the extent required to draw generalizable conclusions about all such lawyer-client interactions. From the chosen exploratory case study approach, however, particularized findings can be obtained from which theories about communication can be developed, confirmed or adapted (Blommaert & Jie, 2010; Copland & Creese, 2015), described as 'transferability' by Denzin and Lincoln (2013, p. 27).

Secondly, and connected to both the substantive and methodological aims of the study, a major consequence of the case study approach is that the nature of the research site selected of necessity impacts on the findings, making identifying a research site and negotiating access a highly significant aspect of the research process. Obtaining research access to a normally private interactional environment such as a lawyer-client meeting is, however, a complex process strewn with practical and ethical challenges. As Rock notes, 'perhaps the single most obvious challenge of working, or hoping to work, in legal settings is that access is fraught and consent to use data can be elusive' (Rock, 2015, p. 121 citing Speer and Stokoe, 2014). In this study, a reflexive

approach (Attia & Edge, 2017; Lincoln, Lynham, & Guba, 2011) is adopted involving continual adaptation of the project in relation and response to the ethical and practical issues encountered. I recognize that such issues ‘must be resolved locally, drawing on contextual realities and mutual understandings’ (Copland & Creese, 2015, p. 176).

Thirdly, there are considerable challenges in this study associated with researching multilingually. “Researching multilingually” is defined as ‘the process and practice of using, or accounting for the use of, more than one language within the research process’ (Holmes, Fay, Andrews, & Attia, 2016, p. 101). Both Slembrouck (2011) and Kramsch and Whiteside (2008) have commented on the challenges of carrying out research in today’s fragmented, superdiverse linguistic and cultural contexts. The key issue for this study is how a communicatively-focused research project can be planned and carried out when the mix of linguistic and cultural diversity in the proposed research context of asylum and refugee law advice meetings is unpredictable. The unpredictability encompasses project planning, data collection, data processing and analysis methods and techniques. This again necessitates a reflexive and responsive approach, in respect of which Holmes et al.’s (2013; 2016) framework (see section 4.1.3) offers useful guidance.

My own positionality impacts on how I approach the latter two complexities in particular. In relation to the complexities of accessing the legal advice environment, my identity as a qualified (non-practising) solicitor of England and Wales<sup>4</sup> gives me an awareness of the rules, regulations and social dynamics surrounding the lawyer-client relationship that informs, but also influences, how I approach the research. As regards the questions surrounding researching multilingually, I bring a meta-awareness of language, processes of intercultural communication and culture, and some partial linguistic resources in addition to English to the research through my longstanding engagement with language and culture learning in both formal and non-formal learning environments<sup>5</sup>. I discuss researcher positioning and reflexivity further in Chapter Four (section 4.4), where the process of fieldwork is addressed.

## **1.5 Key concepts and terms**

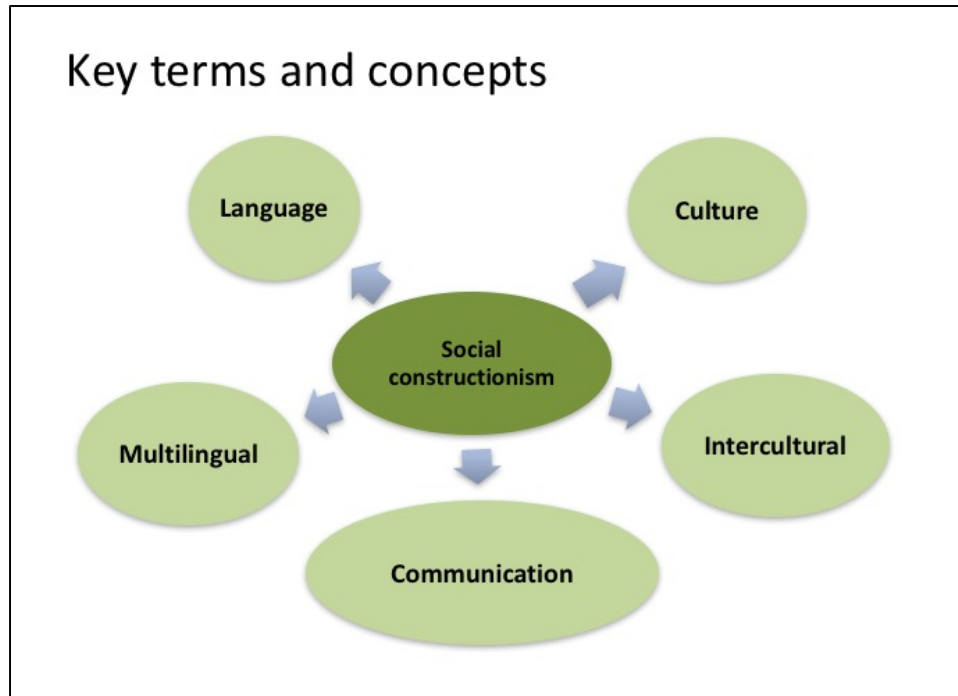
In this section 1.5 I introduce my perspective on, and provide definitions of, the key concepts of communication, language, culture, multilingualism, and interculturality (shown in Figure 1.1) that I draw on in this thesis. As might be expected in an interdisciplinary field of the social sciences, a

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<sup>4</sup> Prior to commencing doctoral study, I qualified as a solicitor, and spent eight years practising transactional commercial property law.

<sup>5</sup> I have studied French, German, Latin, Japanese, Spanish and Arabic in a variety of contexts and to a range of levels, and have also sojourned abroad for study, work or volunteer activities several times in diverse circumstances.

range of different paradigms exist within intercultural communication studies, each with its own perspectives on what culture is and how language and communication are influenced by culture (Zhu, 2016). It is important to be clear about where this research, and my own orientation to it, is situated within the field (Denzin & Lincoln, 2013).



**Figure 1.1 – Key terms and concepts**

My own approach to language, culture and intercultural communication is heavily influenced by applied linguistic work within linguistic anthropology (Duranti, 2001), linguistic ethnography (Rampton et al., 2004), and in particular by the thought of the Belgian sociolinguist Jan Blommaert (2003, 2005) and the Danish language pedagogy scholar Karen Risager (2006, 2012). My approach to language and culture is epistemologically grounded in the social constructionist paradigm (Berger & Luckmann, 1966; see Chapter Three, section 3.1), which recognises that what counts as knowledge or fact in a social system is produced by social interaction between individuals through a process of sharing, then acceptance and normalisation, and then reification of ideas within a social group (a clear explanation of this can be found in Holliday, 2011, pp. 139–142). It follows that language and communication are formative of our societies and our cultures, and that the links between them are important objects of study. Studies in this area are interested in language-in-use, or the attribution of social value to language (Gumperz, 1982a; Hymes, 1974, 1996). This is a post-structuralist endeavour, going beyond the structuralist conception of language as a system of arbitrary signs linked by social convention to the objects or constructs

that they describe (Saussure, 1959), and seeking to investigate the nature of such links between the linguistic system and social reality.

## **Communication**

The object of investigation in this study is **communication**. Communication takes place through a range of semiotic modes including language-related modes such as speech, writing, paralinguage (pronunciation features such as volume, pitch, tempo, pauses and hesitation, laughter, sighs, etc., Risager, 2006, p. 77-8) and formal sign language systems, and non-linguistic modes such as kinesics (the use of the body for communication, e.g., through gesture and facial expression), the use of pictures and images, and the use of the social environment (Canagarajah, 2013; Streeck, Goodwin, & LeBaron, 2011). Blommaert encapsulates this multiplicity of semiotic forms within his definition of 'Discourse' as 'language-in-action' (Blommaert, 2005, p. 2), or 'all forms of meaningful semiotic human activity seen in connection with social, cultural, and historical patterns and developments of use' (p. 3). Communication takes place face-to-face in real time and place, but also in technologically mediated forms such as via phones, computers, or books, which allow people to communicate across time and space. This study is focused on real time face-to-face communication in the legal advice meeting, although technologically-mediated communication also enters into the interactional space. Due to methodological choices and limitations I discuss elsewhere (see Chapter Four), language-related modes of communication are my main focus, but I do not deny the importance of other modes, and I try to capture these where possible.

I adopt a view of **communication as dialogical**, as 'a process of negotiation of meanings among participants' (Mason, 2006, p. 360), drawing on Bakhtin's (1981, 1986a) 'interactional and contextual theories of human sense-making' (Linell, 2009, p. 20). In the dialogical perspective, communication is inherently social; it requires interaction and engagement with others and with the communicative context, even if this is not overt or immediate (Bakhtin, 1981). As Linell (2009, p. 26) points out, in communication we are all dependent on our interactional partners. In face-to-face communication, shared meaning (understanding) is negotiated between communicating parties, and 'the meaning conveyed in and by talk is partly a joint product' (Wadensjö, 1998, p. 8) because it is co-constructed in and through the interaction (Bakhtin, 1981; Voloshinov, 1973).

## **Language**

Language is one of a range of communicative resources used in communication. A language is a system for human communication which links symbols to meaning in an arbitrary but systematic manner (Mesthrie, 2009 drawing on Sapir, 1921 and Saussure, 1959). A linguistic system provides

a shared structure for the negotiation of meaning which speeds up communication between two individuals, by allowing them to draw on pre-established relations between words and meanings (signifier and signified), rather than having to negotiate meanings from no shared basis. Language systems exist in the different **modes** of sign, speech, and writing (Mesthrie, 2009, p. 1), and there can be substantial differences between spoken and written language systems (Bucholtz, 2000), such as within the Arabic language. There is also significant variation within language systems themselves, evident through the range of **language varieties** (which term incorporates variation across registers and dialects, Mesthrie, 2009, p. 10) in use globally.

Language is primarily a social phenomenon. That is, language is used in a social context, and knowledge of a linguistic system alone is rarely sufficient for complete understanding. For example, knowing the semantic meaning of the referent 'he' is not enough for a hearer to understand what a speaker means by this word; the full, pragmatic meaning must be inferred from the social and communicative context. This is reflected in Hymes' notion of 'communicative competence' (Hymes, 1974, p. 75): individuals need to know not just how the linguistic system works, but also how to appropriately draw on the social context to correctly produce and interpret meaning from the linguistic system.

### **Multilingualism**

Drawing on Mesthrie (2009, p. 37), Risager (2006) and Blommaert (2003), I adopt a definition of multilingualism as being the characteristic of an individual, group or society having access to and using more than one language in communication. Multilingualism takes many forms, and indeed its precise meaning depends on how a 'language' is defined, and whether the term is being used at the level of the individual or the society. Increasingly diverse forms of multilingualism are manifesting in our societies as 'the mobility of people also involves the mobility of linguistic and sociolinguistic resources' (Blommaert, 2010, p. 4), and linguistic forms come into contact with each other, merge and mingle (Blommaert & Rampton, 2016; Rampton, 1995). This is also recognized by Risager, who talks about 'linguistic flows and linguistic complexity' (Risager, 2006, p. 88) due to networks created by migration, technologies of communication, and trade in goods and services.

Influenced by these discourses, my conception of multilingualism is a flexible one including both full mastery of more than one linguistic system, and partial forms of multilingualism or 'truncated multilingualism' (Blommaert et al., 2005, p. 199), i.e., linguistic resources or practices that extend into only some social domains or contexts of use. In this thesis, I use the following definitions taken from Risager (2006, p. 7) and adapted slightly:

- **First language** (hereafter, ‘**L1**’): the language learned in the family in early childhood as part of social, emotional and intellectual development. A person may have more than one L1, if they were raised in a multilingual environment. A person’s L1 resources are likely to be near-comprehensive for general usage.
- **Second language** (hereafter, ‘**L2**’): a language learned in early life or later, outside close family socialisation (e.g., at school, during education). Individuals may have more than one L2. My conceptualisation of an L2 includes languages partially learned for specific purposes. Thus, a person’s L2 resources may range from near-comprehensive, to limited to specific contexts.

Individuals may have different levels of productive and receptive resources in different languages, and across different modes, depending on their socialisation and education.

## **Culture**

My conceptualization of **culture** is that it is a social construct used to explicitly or implicitly describe social group identity and characteristics associated with it. It is used to describe the ways in which individuals embody, and/or signal a particular group identity and belonging, through adoption of or adherence to certain ranges of norms of behaviour, communication, and underlying beliefs and values that are generally accepted within the particular social group as signs of belonging. Culture is to a large degree expressed, embodied, and symbolized through particular ways of using language (Kramsch, 1998). Indeed, my view of culture is very similar to the alternative concepts of ‘Discourse’ (Gee, 2012) or ‘discourse system’ (Scollon, Wong Scollon, & Jones, 2012) proposed by those authors to foreground the formative role of language use in cultural practices. I do not adopt this terminology, however, partly because I use the term discourse in a different way within this thesis (see Chapter Three).

Wherever there is a social group with which people identify, (an abstract construct of) a culture can be said to exist, although it may be more or less explicitly or tightly defined. Cultures are therefore multiple – any one individual may identify with many cultures - and they are dynamic, changing as the composition and identifying characteristics of social groups change. Cultures can be large or small, and more or less organised or institutionalised (Holliday, 1999). In this, I am influenced by Holliday’s view (itself drawing on Berger & Luckmann, 1966) of how cultures are formed through social interaction, by the acceptance and normalization of certain behaviours within a group leading in time to such behaviours becoming naturalized, then reified and possibly codified (Holliday, 1999, 2011, 2013). I am also influenced by Rathje’s (2007) conceptualization of cultural groups as incorporating diversity within themselves (hence my use of ‘ranges of norms’



as opposed to 'norms'). In Rathje's view, cultures are grounded in a commonly accepted view of the range of difference that exists within the social group (norms that are negatively defined): 'cultures are stable not because of universally ascribed-to norms, but because an acceptable range of diversity is what is subscribed to' (p. 264). This view of culture helps to avoid cultural essentialism (Holliday, 2011).

In this view of culture, one can say that there is an internal cognitive dimension of **cultural resources** (how someone conceptualizes what range of norms and behaviours, values and beliefs are associated with their own or others' social groups), and an externalized performative dimension of **cultural practices**, or behaviours which are displayed to signal group belonging and/or are interpreted as such. A third abstract and system-level construct of **culture**, in the sense of "English culture" or "Islamic culture", can be used to talk about culture in the popular, differential sense (Bauman, 1999). Individuals learn the set of cultural resources and practices prevalent in their family environment in early childhood, as a **first culture** or **C1**; and acquire other full or partial sets of cultural resources and practices (**second cultures**, or **C2**) as they start socialising outside the home and becoming part of other social groups within which different ranges of norms apply. Gee (2012, p. 165) describes these as 'primary' and 'secondary Discourses'.

### **Intercultural**

I view an interaction as **intercultural** whenever cultural differences between participants in an interaction are internally perceived as meaningful to the participants in their communication. Following Spencer-Oatey and Franklin (2009, p. 3), 'an intercultural situation is one in which the cultural distance between the participants is significant enough to have an effect on interaction/communication that is noticeable to at least one of the parties'. Zhu also highlights perception of difference (however this arises) as what defines intercultural communication:

Intercultural communication is primarily concerned with how individuals, in order to achieve their communication goals, negotiate cultural or linguistic differences which may be perceived relevant by at least one party in the interaction...it provides an opportunity to examine what we do when the other party in the interaction, either by ascription or self-orientation or a combination of both, appears, sounds or interacts differently from ourselves. (Zhu, 2014, p. 200)

This is consistent with the view of culture as an in-group or out-group identifier (Holliday, 2013). In my data, different aspects of interculturality are evident: social group identifications such as White British / Black Sudanese; male / female; lawyer / lay client are relevant as well as others.

It is significant that I use the prefix 'inter', rather than 'multi' as in multicultural. The term 'multicultural' is used to describe the status of social environments in which several different cultures are present and exist side by side; there is no necessary implication of interaction between different cultural communities. On the other hand, the adjective 'intercultural' is applied to processes, particularly of communication. The prefix 'inter' of necessity implies interaction between the two different cultural positions (Spencer-Oatey, 2008b, p. 6), and is the natural term to use if the dialogical perspective on communication as the negotiation of meaning is adopted.

### **Legal advice**

Finally, in relation to legal advice I wish to note that legal work which involves a lawyer representing a client in relation to others outside of meetings (e.g., making applications for the client, or representing the client in court) (Heslop, 2014, p. 64) is not the primary focus of this thesis. My interest in this research is to examine face to face communication between lawyer and client within a meeting held to gather information from the client about the issue and to deliver legal advice on that issue. The US literature tends to separate out these legal advice tasks into 'interviewing' (information-gathering), and then either 'advising', (if the lawyer recommends one course of action only to the client), or 'counselling' (if the lawyer presents a range of options to the client and discusses with them which is the best option) (Sherr, 1986a, p. 141). With the term 'legal advice', I cover everything that goes on in a face-to-face meeting between lawyer and client for the purpose of discussing the client's legal matter – in this study, either an application for asylum or an application for refugee family reunion.

## **1.6 Overview of the thesis**

The thesis has three main parts. The first is comprised of Chapters One to Four, which set out the substantive, theoretical and methodological basis and methods for the study. The second part consists of Chapters Five and Six, and presents the research findings. The final part comprises Chapter Seven, in which the findings of the study are reprised and conclusions drawn.

Within part one, in this Chapter One, I have introduced the study, setting out its principal objective and the research questions to be investigated, and discussing the various challenges to be dealt with, as well as my conceptualization of, and value position in relation to, key concepts in the

study. In the following Chapter Two, I frame the study by providing an overview of existing research and professional literature focused on lawyer-client communication and other contexts relevant to this study, such as asylum interviews. The following Chapter Three sets out the methodological and analytical framework used, introducing the theoretical orientation to the research, linguistic ethnography as a methodological frame, and the two meso-level discourse analytic concepts of communicative activity type, and intertextuality, that are employed in the interactional data analysis. In Chapter Four, I discuss the methods followed in the study, and an account of planning, accessing the study's research site, data collection and analysis. I also reflexively engage with my personal orientation to, and identities within, the research.

In part two, Chapters Five and Six contain the analysis of interactional data gathered in the study. Chapter Five focuses on data from legal advice meetings with refugees about refugee family reunion applications, and uses the analytical lens of communicative activity type to explore the structure of these interactions and how intercultural and multilingual communication was managed within this. Chapter Six analyses data from legal advice meetings with late stage asylum seekers, using the concept of intertextuality to explore the relationships between the talk-in-interaction within the meeting, and a range of other texts which bring other contexts into the interaction.

In the final part three and chapter, Chapter Seven, I summarise the study's key findings, outline its main contributions, and reflect upon the study and its limitations, as well as the implications of the findings for practice and further research.

## **Chapter Two: Literature Review**

In this Chapter Two I review key aspects of the existing professional and research literature about legal advice communication, communication in asylum processes, and the role of interpreters in each of these communicative contexts. I aim to present what is already known about how lawyers and clients communicate with each other in legal advice interactions. I also highlight the gaps in existing knowledge about multilingual and intercultural legal advice communication, gaps that help to justify this study's main research question of how clients, lawyers and interpreters communicate interculturally and multilingually with one another during legal advice meetings about asylum and family reunion law. Finally, I aim to demonstrate the importance of focusing on the three dimensions of communication that underpin the study's three subsidiary research questions: the means of communication (communicative resources) used in legal advice; the contexts that frame and impact on legal advice communication; and the dynamics of control and agency that are present in legal advice communication.

In section 2.1 I discuss the inherently intercultural nature of legal advice communication as one type of legal-lay interaction. Moving to section 2.2, I explore the ideological basis of legal advice communication in the Anglo-Western legal tradition through a discussion of the professional education and training approach to this topic. Then, in section 2.3 I consider key themes emerging from the existing research literature about legal advice communication in both monolingual and multilingual contexts, before in section 2.4 examining literature on interpreting in legal advice and asylum contexts. Finally, in section 2.5 I extrapolate key themes and key concepts from the literature considered, and explain how I theorise these concepts in this study.

### **2.1 Legal-lay interaction as intercultural interaction**

Legal advice aims to support individuals in their engagement with legal processes. This section 2.1 explores how the law, as a social institution, manifests particular communication conventions which can be unfamiliar to individuals engaging with it, meaning that lawyer-client interaction can be viewed as intercultural in and of itself.

#### **2.1.1 The law as an institution and as a culture**

Gibbons argues that 'the justice system is arguably the most directly powerful institution in societies subject to "the rule of law"' (Gibbons, 2003, p. 75). The law 'represents a society's value system' (p. 1), regulating individuals' behaviour through a complex of legal institutions designed to enforce the values that are enshrined in the laws of the land. These legal institutions function largely bureaucratically, using language for social control (as all bureaucracies do, Sarangi &

Slembrouck, 1996). Law and language are deeply interconnected, because language and its interpretation constitutes the substance of the law.

Many have also argued that the law has its own specific culture, manifest through language (Bryant, 2001; Conley & O'Barr, 1990; Gibbons, 2003). This is not surprising when it is recognised that institutions are closely connected with cultures. Firstly, institutions are grounded in a particular set of cultural beliefs espoused by a dominant or powerful social group, which are formalised and codified into a system for social regulation (Holliday, 2011). Myers uses the anthropologist Mary Douglas's conception of institutions as 'thought worlds', or 'legitimized social groupings' (Myers, 1998, p. 3 citing Douglas, 1987) to describe this. Secondly, an institution will also of itself (re)produce an institutional culture, in that an institution will be associated with its own ranges of norms of behaviour, communication, and underlying beliefs and values which its representatives and supporters subscribe to, and perform in interaction with others as signs of belonging or association (Sarangi & Roberts, 1999b). It follows that a distinct, organization- or institution-specific set of communication patterns is usually observable within institutions (Roberts, 2009), and the law is no exception. Legal professionals have developed very particular communication patterns that render many aspects of the law inaccessible to those without specialist knowledge or training (Gibbons, 2003).

### **2.1.2 Legal-lay cultural and linguistic divide**

Reviews of sociolinguistic studies of interaction in legal contexts (Eades, 2010; Hafner, 2012) highlight four ways in which a legal-lay cultural and linguistic divide is observable through differing language use conventions. Firstly, and perhaps most evidently, studies highlight the specificity of legal discourse – otherwise known as 'legalese' (Gibbons, 2003, p. 198) or 'lawyerspeak' (p. 204). Legal language employs a formal register and a specific technical lexicon developed for precision and efficiency within the legal environment, but less comprehensible to outsiders (Eades, 2010; Good, 2007; Sarat & Felstiner, 1995; Scheffer, 2006; Trinch, 2003). This also has identity and group-belonging related consequences: 'interpersonal' (Gibbons, 2003, p. 37) use of the specialist legal register signals membership of the legal culture, from which anyone without knowledge of the register is excluded. Lawyers often need to explain the meaning of legal terminology to clients within legal advice meetings in order to give effective advice (Dieckmann & Rojas-Lizana, 2016).

Secondly, legal discourse tends to be fact-centred, minimising the emotional and social content of stories in favour of an objective presentation of events. This is presented as a requirement of the legal processes to which narratives (both oral and written) must conform in order for them to be accepted and processed by the legal system (Trinch, 2003). Part of the work of the lawyer

consists of ‘translating’ the client’s emotionally-laden narrative, told in their own language(s) and register(s), into a factual account in institutionally acceptable language and format (Eades, 2010; Trinch, 2005), with clients often having little control over this translation process.

As a third dimension, the law adopts a different approach to narrative than that taken in everyday life. Narrative and storytelling are a key dynamic in legal processes, in that ‘legal decisions often involve the evaluation of individuals’ stories’ (Eades, 2010, p. 247) in order to uncover the “truth”. However the importance of “truth” - equating to consistency, accuracy and reliability in the legal sphere – contrasts with findings from narrative theory studies showing that stories are socially-oriented, and often different at each telling because of the way they are selectively recalled in response to the context of each particular telling (see also Baynham & De Fina, 2005). Problems arising from these mismatches in discursive expectations and reality have been examined in studies of criminal law processes (Eades, 2008; Komter, 2006; Trinch, 2003), and are also evident in the asylum process, where they can lead to applicants’ accounts of persecution being disbelieved (Farrell, 2012; Good, 2009). Legal advice in the initial stages of a legal matter can involve a lawyer interrogating the client’s narrative of events to draw out the legally relevant facts, and questioning around these to make sure that the client is consistently representing them, as was illustrated in Halldorsdottir’s (2006) study of a criminal lawyer’s first meeting with a client suspected of shoplifting.

Finally, the interdependency of text and talk and the pre-eminent role of written text is highlighted as a key aspect of the legal process (Komter, 2006). Studies of lawyer-client and police-suspect interviews and interactions have shown how the official (written) version of an individual’s account of the relevant event or events, contained in a witness statement or interview record, is in fact co-constructed from an oral account given by the individual in interaction with legal professionals (Halldorsdottir, 2006; Komter, 2006a; Rock, 2001; Trinch, 2003). In entextualizing the account, legal professionals continually engage in an intertextual process that is not necessarily evident to the client, through linking the story to relevant laws, and drawing out and highlighting the legally relevant aspects (Halldorsdottir, 2006; Rock, 2013). The documentary product is then fed into the legal process and becomes the definitive, entextualized account upon which legal decisions are made and further legal processes are based. The legal professional performs a mediating and entextualizing function between oral narrative and written legal discourse.

All these aspects of legal communication highlight the importance of paying attention to the communicative resources used in legal advice. An examination of what sort of language is used, what discourse conventions are in play, and what different oral and written means of

communication are used, can help to reveal how lawyer and client negotiate understanding about the law with each other in legal advice interactions.

### **2.1.3 Institutional literacy, and lawyers as intermediaries**

Institutional cultures, as expressed through specific language and discourse conventions, create problems of unintelligibility to the outsider. Slembrouck (2011) has highlighted the hidden requirement of 'institutional literacy' (p. 158) as one concern arising from research on intercultural communication in institutional settings. Roberts' (2009, 2013) research on the 'organisational culture' (Roberts, 2009, p. 29) of the contemporary British workplace illustrates this, showing how some ethnic minority job candidates who are not familiar with the institutional ideologies of the post-bureaucratic new work order and their accompanying 'linguistic and cultural processes' (Roberts, 2013, p. 92) are disadvantaged in job interviews because of a lack of institutional literacy. Entry into the workplace requires a certain level of prior knowledge of the discourse styles and underlying ideological frames in use in the workplace culture, which Roberts' analysis shows these candidates could not demonstrate at interview.

Engagement with legal processes is not dissimilar from the workplace recruitment processes examined by Roberts (2009). As discussed above, the law has specific linguistic, discourse and cultural conventions that differ from those used in the everyday environment. This difference is exacerbated by lack of flexibility; institutions are imbued with authority in society because of their legitimized status, and consequently require others to conform to their rules (Sarangi & Slembrouck, 1996). Taking a view of institutional literacy as familiarity with and knowledge of institutions and their discourses, cultures, and processes sufficient to operate within them, I follow Roberts in thinking of institutional literacy as a question of cultural difference, requiring cultural as well as linguistic mediation to be resolved. Such legal-lay mediation is the function that lawyers fulfil through legal advice and associated activities.

The lawyer's job is characterised in a foundational work on legal communication as 'a kind of two-way interpreting combined with puzzle-solving' (Conley & O'Barr, 1990). Conley and O'Barr's conceptualization reflects that legal advisors, like many public-facing professionals, mediate or translate between the institution they are knowledgeable about or connected to, and members of the public (clients) seeking to engage with that institution. It should be noted that this is not a neutral role. Gibbons (2003) rightly points out that this legal-lay divide is the consequence of differences in cultural capital (Bourdieu, 1972) that are meaningful within the social field of the legal process, and places power in the hands of lawyers. As Gibbons observes: 'if the language needed to operate within a specialist field is unintelligible to non-specialists, this creates a need

for the services of a specialist to mediate between ordinary people and the specialist field. Put crudely, it makes work and money for lawyers' (p.37). The lawyer's mediating function in legal advice is thus intertwined with institutional structures and social power, which (as will be seen in the following sections of this chapter) is reflected in the communicative process between lawyer and client. This is why it is also important to pay attention to power dynamics in legal advice interactions.

Two dimensions of the power relations inherent in this dynamic between individual, professional, and institution, are highlighted by Sarangi and Slembrouck's (1996) study of language use in mediating professions (e.g., social work) and mediating institutions (e.g., advisory bodies such as Citizens Advice Bureau) advising clients how to engage with institutional practices most effectively. Sarangi and Slembrouck argue that an advisory centre for education that supported parents to engage with local authorities about the education system had a "ventilation' function' (p. 168), in that parents' institutionally irrelevant or inappropriate comments and views were vented to the advisory centre (providing a listening ear to the client), whilst the client's actual engagement with the local authority was guided and moulded by the advisory centre to be more institutionally-friendly. On the one hand, this increased the client's chances of successful engagement, and thus improved institutional accessibility for the client; but on the other, Sarangi and Slembrouck conclude that mediating institutions perpetuate the institutional system by maintaining existing practices, in the process contributing to 'multi-tier bureaucracy' (p. 178). This analysis can arguably be applied to many types of legal advice.

Although Sarangi and Slembrouck (1996) do not acknowledge it as such, I argue here that the kind of expert-lay mediating communication discussed above is a form of intercultural communication. I am not alone in this view (see e.g., Carlson, 2013; Cunningham, 1992). Linell describes the complexities of professional-lay communication as 'encounters between representatives of different subcultures and interest groups...all with their different commitments, understandings and premises for communication'... 'what is being exchanged is not only words and discourses, but the worlds that make discourse' (Linell, 1998, p. 149). Linell's description reflects the conception of professions as connected to institutions, and institutions being characterised by institutional cultures (including linguistic aspects such as the use of specialised terminology) discussed above. It highlights the legal-lay divide as intercultural, and in one conceptualization, multilingual.

In this section I have introduced the ideas that legal-lay communication involves translation from one set of linguistic, languacultural and discursive patterns to another; that legal advice involves mediation between the institutional legal context and the client's everyday context; and that



these processes of mediation and translation take place within frameworks of institutional and social power. In section 2.2, I consider how professional education and training frameworks of legal advice communication deal with these issues, before in section 2.3 showing how these themes are evident in the existing empirical research carried out into legal advice communication.

## **2.2 Professional education and training for legal advice communication**

In this section, I discuss the prevailing participatory ideology of lawyer-client advice interaction evident in the Anglo-Western legal education and training literature. I also examine existing guidance about giving legal advice interculturally and/or multilingually.

### **2.2.1 Client-centred lawyering in the USA**

Reflecting the legal-lay divide and power issues outlined in section 2.1, the foundational text underlying contemporary legal advice training in Anglo-Western countries, “Lawyers and Clients: Who’s In Charge?” (Rosenthal, 1974), focuses on the question of interactional control. Drawing on an interview-based study comparing different styles of lawyer-client communication in US personal injury legal advice and lawyers’ effectiveness (in terms of the level of damages the client was awarded), Rosenthal challenged the then dominant ideology of lawyer-client interaction, a paternalistic model of dominance in which it was assumed that the lawyer knows best how to resolve the client’s legal problem. The accompanying “authoritarian” advice style was lawyer-led, with the largely passive client occupying only a minimal role in the advice interaction. Raising ethical issues connected with this, Rosenthal posited an alternative “participatory” advice style as better for the client. Rosenthal argued that by explaining the law and available options for action to clients, and actively engaging them in the decision making process, lawyers would secure increased client cooperation, act more ethically by giving clients greater control over their own issue, and achieve better results for clients. Rosenthal’s book was the genesis of a fundamental shift in the way lawyer-client interaction is conceptualised by professionals, academics and students today.

Binder, Bergman and Price (1991 (updated); Binder & Price, 1977) developed Rosenthal’s participatory approach by recommending that lawyers acknowledge and attend to the non-legal aspects of the client’s position within legal advice, as well as the legal aspects. Binder, Bergman and Price advanced a ‘client-centered approach’ (1991) to communication in legal advice interactions, aimed at involving the client as much as possible in the interaction using interactional techniques such as exercising active listening (using silences, minimal non-committal prompts, and confirmatory responses); recognising and responding to both factual and emotional aspects of a client’s narrative (e.g., by expressing empathy with clients’ emotions); and using open

questions to encourage the client to disclose more information combined with ‘funnelling’ questions to narrow in on specific pieces of information. Template ‘patterns’ for ways of beginning and continuing with client advice meetings were offered as models for lawyers to use in four communicative phases: (a) beginning the interaction; (b) obtaining information on the facts and on client objectives through questions; (c) presenting clients with alternative options and consequences of those options; and (d) assisting the client to make a decision. The first two ‘interviewing’ (information-gathering) and last two ‘counseling’ (advising) phases could take place at separate meetings, allowing the lawyer to research and consider options between meetings. Binder Bergman and Price’s (1991) client-centred model has been influential in legal training in the USA and related jurisdictions including England and Wales, and attempts to address perceived lawyer dominance in legal advice interactions, although one study of it highlighted that the lawyer is inevitably dominant in advice phases (Smith, 1995).

### **2.2.2 Models for advice giving across cultural differences**

Legal advice giving across cultural and linguistic differences has received some attention in the USA, stemming from criticisms that Binder, Bergman and Price’s (1991) client-centred lawyering model does not address potential lawyer-client power imbalances deriving from social status, class difference or cultural difference (Tremblay, 2002; Weng, 2005). Several models for awareness-raising in cross-cultural lawyering have emerged from US law student clinical practice<sup>6</sup> (Brooks & Madden, 2010; Bryant, 2001; Tremblay, 2002; Weng, 2005). The best-known of these, Bryant’s ‘five habits’ model (Bryant, 2001, p. 33), draws on a view of culture as ‘the logic by which we give order to the world. Culture gives us our values, attitudes and norms of behavior’ (Bryant, 2001, p. 40). Bryant argues that ‘cross-cultural lawyering occurs when lawyers and clients have different ethnic or cultural heritages and when they are socialized by different subsets within ethnic groups’ (p. 40-1), and advocates that cross-culturally competent lawyers should reflect on cultural similarities and differences, unconscious bias and stereotyping and their impact on communication with clients; be aware of their own value position in relation to the law and how this compares with the client’s; be aware of alternative ways of being and doing; and give attention to how their communicative messages may come across differently to the client.

Significantly, Bryant points out that the law is a culture into which lawyers have been socialised, and that lawyers need an awareness of this in their practice:

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<sup>6</sup> In student clinical law practice, student lawyers (appropriately supervised) run free legal advice clinics for members of the public as a means of experiential learning about legal practice. Student law clinics are more common in the USA than in the UK.

The law, as well as the legal system within which it operates, is a culture with strong professional norms that gives meaning to and reinforces behavior. How legal education influences the choices that students do or do not see is an important part of the cross-cultural analysis. (Bryant, 2001, p. 40)

This view of law as a culture, with an associated separate way of conceptualising and using language from the lay perspective, is echoed by others writing about the insights gained about the role of lawyers from conceptualising lawyers as translators (Carlson, 2013; Conley & O'Barr, 1990; Cunningham, 1992). Bryant's model has merits as a tool for promoting greater awareness of issues associated with intercultural legal practice, including power imbalances, awareness of the contexts that the client brings with them into legal advice, and consciousness of how language is used. However, the 'cross-cultural' model of interaction is based on a conception of cultural values, attitudes and behaviours as static and fixed, with the paradigm of 'difference' as entrenched, and thus, is at odds with the relational, transactional and dialogic perspective on communication and intercultural interaction that I adopt in this study (see Chapter One). Moreover, none of the models of cross-cultural lawyering mentioned in this section take into account linguistic difference, beyond the linguistic and cultural aspects of the legal-lay divide. The failure to address how language differences between lawyer and client feed into and affect interaction seems a particular oversight.

### **2.2.3 Legal advice training in England and Wales**

In England and Wales, practical training in interview skills has since 1993 formed part of the vocational qualifications required by the Law Society for entry to the solicitor's profession (currently the pre-employment Legal Practice Course, and the Professional Skills Course undertaken during the training contract, a period of mandatory training in employment, although proposals to redesign legal training are under consultation). This is based on a model of interaction in the initial lawyer-client meeting developed by Sherr (1986a, 1986b, 1992) from research and pedagogic experience, and which resembles in many ways the client-centred model prevalent in the USA. Sherr's model is outlined in Appendix B, and comprises a set of 13 tasks to be performed in three distinct stages of (a) listening to the client's explanation of the issue; (b) questioning the client to explore the issue; and (c) advising the client on the issue. Sherr also advances a set of 18 skills that lawyers should demonstrate in the carrying out of these tasks. Managing the lawyer-client interpersonal relationship by showing ease, empathy and reassurance, and interactional dynamics by 'facilitating the client to talk' (Sherr, 1986b, p. 344) whilst 'controlling the client and "irrelevant" information' (p. 344), are key concerns reflected in

these 18 skills, as is reaching across the legal-lay communicative divide by, for example, 'not overusing legal terminology' (p. 343). Notably however, the model does not address communication where linguistic and cultural differences (beyond the legal-lay) exist between lawyer and client. Sherr's consideration of 'special interviewing cases' (1986a, p. 117) is limited to the mentally ill, suicide risks, and children.

One generalist practitioner-focused text, aimed at advisors giving publically funded and not-for-profit legal advice in England and Wales on social welfare law topics including immigration (Heslop, 2014, first edition 2007), does provide some limited guidance on giving legal advice in multilingual settings to UK-based practitioners. Heslop counsels caution if dealing with clients using a second language, advising that even if the client asserts otherwise, lawyers should not automatically assume that clients are able to communicate effectively 'given the complexities that can arise in being giving [sic] advice and guidance on legal matters' (p.82). Lawyers should be alert to comprehension difficulties, and arrange an interpreter if needed. Basic information on finding interpreting services is given, followed by a short list of suggestions for behaviours to adopt when conducting interviews through interpreters (p. 83). Separately, Heslop recommends that where clients are unable to read or write (in English), lawyers should explore with the client whether a trusted third party can read letters and other documents out loud to them, or whether other options such as reading documents out loud in meetings or by telephone, and/or audio recording advice sessions for later playback by the client, would be appropriate solutions (p.78). Interestingly, Heslop's advice to UK lawyers is language-focused, in contrast to the culture-focused approach advanced by Bryant (2001) in the USA. It is positive that the need for lawyers to consider and plan for intercultural and multilingual communication is acknowledged. However, considering that immigration law clients are likely to come from linguistically and culturally diverse minority groups (Low Commission, 2014), the level of advice Heslop (2014) offers is quite basic, with for example no discussion of possible inequalities arising from linguistic or cultural differences.

The professional education and training literature reviewed above emphasises that lawyers should encourage clients to participate in legal advice interaction by allowing them space to talk, listening actively, and acknowledging client emotions, whilst at the same time retaining interactional control to ensure the meeting is kept on-task. Lawyers are also recommended to pay close attention to their use of language, avoiding too much legalese and being alert to comprehension difficulties. These concerns highlight that a connection between the language and communicative style employed in legal advice-giving, and the dynamics of control and agency within interactions, is recognised in the profession. However, and as Smith (1995) has suggested,

idealized models of interaction such as those advanced in education and training are likely to be flexibly or imperfectly applied in legal practice, and in section 2.3 I interrogate this suggestion as I review empirical applied linguistic research on lawyer-client advice interactions in legal practice.

## **2.3 Empirical research on legal advice communication**

Existing empirical research about how lawyers and clients (acting as individuals, rather than as representatives of a company or organization) actually communicate with each other during legal advice meetings focus on two inter-related themes that have already been encountered: interactional control and power relations; and emotion and relationships. In this section 2.3, I firstly look at each theme in turn in relation to same-language interactions, before considering research featuring multilingual and intercultural legal advice not involving interpreters (communication involving interpreters is discussed in the following section 2.4).

### **2.3.1 Power, control and agency in legal advice communication**

Empirical studies of non-student lawyer-client advice interactions (largely focused on one-off or initial meetings) make conflicting findings about the balance of power as between lawyer and client. A series of pragmatic discourse analytic studies examining data from initial meetings about family and employment law in an Israeli legal aid advice clinic (Bogoch, 1994, 1997; Bogoch & Danet, 1984), found evidence of lawyer dominance and an 'authoritarian' style being used by both male and female lawyers with a range of clients, in spite of 'the ideology of anti-hierarchical, informal relationships in Israeli society' (Bogoch, 1994, p. 81). The authoritarian style included lawyer topic control and interruptions as a means of displaying expertise; directive questioning to restrict the client's contribution to the exchange (Bogoch & Danet, 1984); and 'distancing' (Bogoch, 1994, p. 72) strategies such as using the formal register, using legal jargon to enhance their status vis-à-vis the client, and dismissing the expression of emotion by their clients. In all three studies, the authors noted that the bureaucratic setting of the legal aid clinic served to intensify professional control, pointing out that 'institutional requirements, demands and organization also constrain discourse' (Bogoch, 1994, p. 83 drawing on Mehan, 1987 and Philips, 1987). This happened, for example, by lawyers being able to narrow the scope of a client's issue to fit an institutional frame, and to dismiss client emotional concerns in order to keep meetings shorter and comply with timing and resource constraints. In these findings, a close link was demonstrated between the institutional context of advice interactions, the type of language and discursive strategies used, and the dynamics of control evident in interactions.

A more recent study examining similar pragmatic indicators of interactional power in legal advice communication makes opposite findings, but draws the same conclusions regarding the impact

of the institutional context on communication styles. Dieckmann and Rojas-Lizana (2016) analysed transcripts of ten interactions in an Australian voluntary legal advice clinic operating a 'self-help' model of one-off advice to clients on civil, commercial and housing issues, who must take any further action without legal support. The authors found that a 'discourse of facilitation' (p. 168) was employed by the volunteer lawyers, evidenced by the use of a mixed (formal and informal) register in their speech, the avoidance of legal jargon or explanation of such terms in everyday language, and cooperative (rather than competitive) interruptions. The authors argued that the one-off, 'self-help' clinic context influenced the communication style to be more co-operative. The fact that lawyers (who worked in private practice elsewhere) were volunteering their services in one-off interactions may also have meant that lawyers were less concerned with their own image management (Moorhead, Sherr, & Paterson, 2003; Sherr, 1986b) impacting on style. Comparing this study's findings with Bogoch's findings highlights that it is important to take into account the particular institutional context in which legal advice is being delivered, because this context can have an impact on both the linguistic and discursive resources used, and the dynamics of power in advice interactions.

A further major study (Felstiner & Sarat, 1992; Sarat & Felstiner, 1995) in the very different context of US divorce law rejected the 'authoritarian' vs 'participatory' dichotomy in discourses about lawyer-client interactional style altogether. Felstiner and Sarat adopt a view of interaction as negotiation of meaning between parties, but also note that power and social structure are socially constructed as products of human action and can therefore be resisted by the same means. The authors observed and audio recorded around 115 lawyer-client meetings and analysed the language used for the exercise and resistance of power dynamics. They concluded that power in this context shifted between lawyer and client during processes of 'negotiation of reality' and 'negotiation of responsibility' (Felstiner & Sarat, 1992, p. 1451). Power was evident in one party's ability to have their understandings of the social and legal worlds of divorce accepted by the other through interactional negotiation. They argued that 'power in these interactions is a complicated phenomenon that, over time, is constructed and reconstructed so that its possession is neither necessarily obvious nor rigidly determined', and that power is best viewed as 'a dimension of relationships rather than a resource under someone's control' (p. 1450). Whilst the findings of this study are significant, they are underpinned by the relative lack of inbuilt power imbalances between lawyer and client in this context, and by the nature of no-fault US divorce law (an adjudication between two private parties where settlements involve consideration of multiple factors known only to clients, and where the court's role is to mediate, and act as final arbiter).

A similar conceptualization of the lawyer-client interaction as an interdiscursive struggle between two competing world views and discourses was also adopted in Maley and colleagues' study of audio recordings of initial lawyer-client meetings in Australia (Maley, Candlin, Crichton, & Koster, 1995) in a range of private civil law matters. The authors observed what could be characterised as a 'participatory' communicative style, in which lawyers firstly rephrased or paraphrased ("formulated", Heritage & Watson, 1979) clients' socially-oriented narratives into shorter, non-evaluative but legally recognizable summary phrases for the client to confirm or deny. Secondly, lawyers sporadically used displays of 'empathy and the common touch' (p. 48) in order to reduce professional and status differences between themselves and their clients and affiliate with them, switching from neutral into colloquial and emotionally-laden language to express empathy. Thirdly, lawyers were seen to dramatize possible future legal scenarios or outcomes for the client's benefit in rhetorical question-and-answer sequences, or using modalizations such as 'let's say...', in order to illustrate possible consequences or options to the client in a more relatable way (a similar behaviour of modelling future conversations the client needs to have was observed by Dieckmann and Rojas-Lizana, 2016). The lawyers' use of these and other 'interdiscursive strategies' (Maley et al., 1995, p. 54 drawing on Fairclough, 1992) enabled translation between the rule- and category-orientation of the law, and everyday language clients could relate to, in behaviour that sought to manage power and cultural differences through the use of language.

The studies above featured monolingual interaction in which advice concerned rights other than basic human needs. A context that is more comparable to that of the present study in the asylum and refugee law setting was investigated by Trinch (2001), who observed and audio recorded advice interactions between US Latinas (an ethnic and linguistic minority population) who had suffered domestic violence, and legal advisors supporting them to prepare statements for the court in protective order applications. Lawyers were either paid paralegals in the district attorney's (D.A.'s) office (mostly Latina themselves, sharing language and ethnicity with the clients), or volunteers in a free advice clinic (majority white and English speaking). Trinch's analysis focuses on the contrasting discursive positions of advocate and gatekeeper adopted by the lawyers, and their linguistic construction through the variable use of positive politeness strategies (Brown & Levinson, 1987) in talk. These strategies were used by lawyers to signal alignment (Goffman, 1981b) either to the client or to the institution they work within. Lawyers in the study performed both roles, exercising gatekeeping by assessing whether applicants are eligible for a protective order, but also exercising advocacy by supporting clients to express their need for a protective order in a legally acceptable statement.

Trinch finds, however, that the two groups of lawyers constructed their role differently in interactions with clients. The clinic volunteers tended to more frequently construct an advocate role through positive politeness strategies such as affiliative use of pronouns (e.g., using the inclusive 'we' to express affiliation with the client, and the exclusive 'they' to refer to authorities), giving reasons for asking clients to narrate events in a specific way, and code-switching to use Spanish phrases in talk (even where interpreters are present) to claim common ground with clients. In contrast, the paid paralegals in the D.A.'s office, in spite of sharing many aspects of identity with clients, largely constructed a gatekeeping role for themselves through strategies such as using the excluding 'we' to align themselves with the D.A.'s office in opposition to the client, directing clients to narrate their experiences in a standardised way but without explaining why, and conducting the whole interview in one language. Trinch concluded that 'this comparison of different types of interviewers, contextualized in their distinct social environments, sheds light on how institutional demands may lead interviewers to perform more gatekeeping instead of aligning themselves with victims as their advocates' (Trinch, 2001, p. 498).

The research literature on lawyer-client advice interactions discussed here only partially reflects the enormous diversity of situations in which legal advice is sought by and given to individuals, and can only be considered a snapshot of legal advice practice. This research does however demonstrate how the particular institutional context of a legal advice interaction, as well as other contextual factors such as the kind of legal issue at stake and the identities and social positioning of individuals, can significantly influence communication practices and the dynamics of control and power within that interaction. This illustrates how 'language is affected by and continually affects, or rather, even constitutes the context in which it takes place' (Trinch, 2001, p. 479 drawing on Schiffrin, 1994).

### **2.3.2 Emotion, relational work and trust in legal advice**

The second major theme emerging in existing research is the treatment of emotion (affect) within legal advice interactions, a prominent issue which the pedagogical models of legal advice interaction discussed in section 2.2 also seek to address. Lawyer-client interactions are first and foremost interpersonal encounters, and the literature shows that relational work to address a range of affective aspects is fundamental to the success of advice meetings, in three ways. Firstly, and as noted above (Maley et al., 1995; Trinch, 2001), doing relational work can help to offset the face threat and/or the emotional impact of dealing with gatekeeping issues or discussing sensitive information between lawyer and client. Confirming Trinch's (2001) findings, Dieckmann and Rojas-Lizana (2016) also observed lawyers using positive politeness strategies (Brown & Levinson,



1987) in a range of ways, such as affiliating with clients by employing colloquial and evaluative expressions (e.g., 'cowboy', p. 180) to describe the client's potential opponent in litigation.

Secondly, and as emphasised by Binder, Bergman and Price (1991), legal issues may often carry non-legal dimensions of emotional significance to the client, which if not dealt with may prevent the client from giving attention to the legal consultation and impede the effectiveness of legal advice. Goldsmith (1980) showed in a US student law clinic-based study that lawyer and client attributed communication difficulties encountered in meetings differently: while clients interviewed after their legal advice meeting mentioned that the lawyer appeared uninterested in the emotional side of the case, lawyers reported that the emotional condition of the client was a barrier to smooth and productive communication. Conley and O'Barr (1990) describe this as the clash between the rule-oriented perspective of the lawyer and the relational perspective of the client; a clash originating in the opposition between the law's prioritisation of facts and rationality over feelings and emotion discussed in section 2.1. Addressing this, Sherr (1986b, p. 351) underlines that lawyers need to be able to 'reassure their clients, gain their confidence and empathise with their clients' difficulties'. However, in a study of how well English law students performed against the interviewing model discussed in section 2.2.3 above in simulated interviews, Sherr noted tensions for the lawyer participants between controlling the time for the interview and 'the need to show ease, empathy, and reassurance to their clients' (p. 352). Sherr's findings illustrate that it is not always straightforward for lawyers to manage relational work with clients along with other tasks.

Thirdly, relational work is crucial in establishing trust, an important aspect of any lawyer-client relationship but particularly so where clients are vulnerable (Binder et al., 1991; Council on Social Action, 2009; Heslop, 2014; Sherr, 1986a). In the context of an ethnographic study of English child protection lawyers, Masson observed that 'without mutual trust, lawyers cannot get the information they need to give clients realistic advice (Sherr, 1999) nor hope to bridge the gap between their client's expectations and their professional views of the client's interests' (Masson, 2012, p. 203). Masson noted a range of ways in which her lawyer participants worked to gain the trust of their clients, including by expressing commitment and partisanship, and by sharing personal information with clients – in the process bringing another context, that of personal and private life, into the lawyer-client interaction.

Building rapport with others is a key skill in intercultural communicative situations (Spencer-Oatey & Franklin, 2009), particularly where mutual engagement extends beyond superficial levels. In the asylum legal advice context, this is a key dimension of legal advice communication. Westaby (2010) has observed that the emotional engagement solicitors need to show in order to build trust

and rapport with their clients is a form of 'emotional labour' (p. 154). Westaby defines emotional labour as 'the management of feeling undertaken to present emotional displays expected within the workplace' (p. 154), and notes that this can be produced through genuine emotional responses, deep acting and/or surface acting. In an ethnographic study of the work of solicitors advising clients on the preparation of asylum appeals, Farrell (2012) found that her participants had to deal with inherent tensions between being empathetic and sympathetic towards clients, not wanting to become too emotionally invested, remaining detached so as to be able to conduct themselves professionally with the client, and dealing with their own emotional well-being. Farrell concluded that asylum lawyers had a difficult balancing act to perform because of the need to maintain a limited level of formality, but at the same time create rapport and trust with clients, a finding that is reflected in advice to practitioners from Heslop (2014, p. 119; 132) on the need to remain emotionally independent whilst also supporting and reassuring clients. Neither Westaby nor Farrell examined these interactions in any detail to consider how lawyers use language and communicative strategies in relational work with asylum clients, however. What sort of linguistic and discursive strategies might be used to establish good relations with asylum and immigration clients? What contexts are drawn upon? How might these affect issues of power and interactional control in the legal advice meeting? This study aims to explore some possible answers to these questions.

In asylum and refugee legal advice, linguistic and cultural differences beyond the legal-lay can be a key aspect of the context surrounding advice interactions, and can also be another dimension of power imbalances in communication (Duchêne et al., 2013b; Maryns & Blommaert, 2002). Studies of multilingualism in legal contexts have tended to focus on public environments such as courtrooms because of access constraints in more private legal settings, and highlight the imposition of monolingual language ideologies and the exacerbating effect this has on already present asymmetries of power in these environments (Angermeyer, 2013). Below, I turn to the limited literature which has empirically addressed multilingual or intercultural aspects of legal advice-giving interactions, a communicative context which is ostensibly more co-operative and supportive than many public legal settings.

### **2.3.3 Multilingual advice giving: L1-L2 and bilingual interaction**

Very few empirical studies of legal advice communication feature intercultural and multilingual communication beyond the lay/legal conceptualisation. Dieckmann and Rojas-Lizana's (2016) study of English language advice in an Australian voluntary legal advice clinic features immigrant clients who are all L2 speakers of English, and advice is given in English by lawyers using their L1. The authors however observe that clients 'had a very high level of English competence' (p. 188),

such that the achievement of understanding with lawyers was generally unproblematic. The authors note as key exceptions that the use of colloquialisms (e.g. 'our friend' to refer to a client's opponent, p. 180) by one lawyer, and an idiomatic expression 'blood from a stone' (p. 180) by another lawyer caused comprehension difficulties instead of the intended effect of putting clients at ease and expressing affiliation.

Dieckmann and Rojas-Lizana (2016) also observe how volunteer lawyers sometimes adjusted their language to render it more comprehensible to a lay audience by explaining legal terminology or avoiding its use altogether. This strategy was deployed inconsistently, and it was not clear whether or not this was done because of the clients' identities as L2 speakers of English or for a different reason. Minimising the use of technical vocabulary is one of a range of linguistic accommodation strategies described by Comfort and Franklin (2008), active linguistic strategies that L1 speakers can adopt in their linguistic production when interacting with an L2 speaker, in order to minimize the potential for misunderstanding in the interaction. These strategies are:

Speak more clearly and slowly than usual; pause and emphasize key words;  
increase redundancy; i.e. repeat and paraphrase; avoid unnecessarily technical words, slang, idioms; restrict the range of your vocabulary; use short sentences; use transparent sentence structure...; avoid contractions...; use more yes/no questions; provide answers for the interlocutor to choose from... (Spencer-Oatey & Franklin, 2009, p. 86 citing from Comfort and Franklin 2008: 93)

Dieckmann and Rojas-Lizana (2016) do not report their lawyer participants using other linguistic accommodation strategies with their L2-speaking clients; their article is however focused on two specific pragmatic features (interruptions and register), and it may be the case that other strategies were used but were not reported by the authors.

Clients in Dieckmann and Rojas-Lizana's (2016) study were themselves observed to use a formal register or legal terminology in the interactions, indicating that they had acquired a good level of English linguistic resources, including some level of legal linguistic resources (perhaps not surprising, given the self-help context of the advice service). The familiarity of returning clients with legal terminology and process is also evidenced in Trinch's study of advice to US Latinas who had suffered domestic violence. Trinch (2005) discusses how clients acquire an 'intergenre' of language and discursive knowledge about legal processes as a result of experiencing them, such that they are more empowered if they come to engage with such processes for a second time. This demonstrates the movement or flow of law-related linguistic and discursive resources into clients' consciousness, such that they may become L2 resources and secondary cultural resources

for the client in Risager's (2006) terms (see Chapter One, section 1.5). The implication of this is that where clients have had some degree of prior engagement with the law and legal processes, they may have acquired resources that assist in narrowing the communicative gap between lawyer and client and more quickly establishing a shared context and frame for understanding between lawyer and client. Research focused only on initial lawyer-client communication tends to overlook this.

Trinch (2001) also observed language being used by legal advisors as a resource for indexing the different identity positions of advocate and gatekeeper in a situation where interlocutors were bilingual and language choice was available. Paid Latina bilingual legal professionals used exclusively English with bilingual clients (as opposed to the more usual linguistic behaviour within their community of code-switching between Spanish and English) in order to emphasise their separateness from, and gatekeeping role in relation to, the client. In contrast, volunteer white US legal professionals with L1 English tried to use their (sometimes limited) Spanish resources even when there was a Spanish interpreter present, as a means of affiliating with, and performing an avowed identity of advocate for, the client (Trinch, 2001). This evidences one way in which linguistic resources can be drawn upon as tools of empowerment (in relational work) or of control.

No studies were identified of L1-L2 legal advice interactions between a lawyer using their L1 and a client using an L2 that they had very limited resources in respect of. It is worth mentioning here a useful study from outside the legal context, of how understanding was negotiated in intercultural encounters between institutional representatives and recently-arrived migrant workers in various European countries (Bremer, Roberts, Vasseur, Simonot, & Broeder, 1996). This sociolinguistic study focused on identifying causes of misunderstanding, and linguistic strategies for achieving understanding, in work-based encounters between L1-speaking institutional representatives and L2-speaking immigrants. Bremer et al. (1996) identified a number of strategies employed by both parties in these interactions to achieve some level of mutual understanding, employed both pre-emptively in order to prevent misunderstanding arising, and reactively in order to repair misunderstanding.

These linguistic strategies for achieving understanding are listed in Appendix C, and notably include the majority speaker exercising some of the linguistic accommodation strategies noted above, and employing discursive moves (such as offering a speaking turn) to include the minority speaker in the interaction (Bremer et al., 1996). The extent to which they were used varied, with factors affecting this including the context of the interaction, the time available for interaction, interpersonal dispositions, and the extent to which non-understanding was identified. Bremer et al. argue that in these institutional situations, the onus should be on the majority speaker to do

more work than the minority speaker in the negotiation of understanding, since it is linguistically and interactionally more difficult for the 'weaker' interactional partner to admit to non-understanding (p. 177) and to do the work necessary to repair misunderstanding. This is an argument also made by Linell (2010). Although encounters in this study tended to be of a more fleeting or inconsequential nature than an asylum legal advice meeting, it may nevertheless offer some useful insights for the present research.

#### **2.3.4 Immigration legal advice-giving and institutional linguistic ideologies**

The studies discussed in section 2.3.3 above were conducted in non-immigration law settings and featured clients who were established members of local minority communities. I located only one study of communication practices in immigration legal advice giving, which used an ethnographic approach to examine language ideologies, linguistic practices and catering for multilingualism within an NGO providing advice services to migrants in Catalonia, Spain (Codó & Garrido, 2010). The authors observed a patchwork of multilingual and intercultural practices in use within advice meetings, such as multimodality and the use of documents as tools in communication; simplifying legal terms into lay language; code-switching by one staff member (although this was dismissed by the same staff member in a research interview as an inadequate practice); and the occasional use of ad hoc and professional interpreters. However, they found a contradiction between the use of such practices and dismissive attitudes towards communication issues. Codó and Garrido concluded that the Spanish-dominant language ideology of institutional spaces in Catalonia generally prevailed within the NGO, and that in spite of the linguistic diversity of its client base the attitude to multilingual provision was tokenistic and effectively closed down access to its services for users with few resources in Spanish. Codó and Garrido's findings and conclusions reflect the findings of another study into institutional multilingual practices in a Catalan medical clinic (Moyer, 2011, 2013), and may be grounded in the specificities of the Catalan context.

No interactional audio data were collected in this study, and therefore the detail of the communicative practices employed are not available to allow any interrogation of Codó and Garrido's (2010) claim that actual legal advice service provision failed non-Spanish speakers. The authors' assessment of the language ideology of the legal advice-giving NGO does however seem valid based on the data presented, and their study highlights the need to closely examine the ideologies and expectations surrounding language use in institutions. Language ideologies within law enforcement institutions can impact significantly on legal processes, as research looking at communication in the Belgian asylum process shows (Blommaert, 2001, 2009; Blommaert et al., 2005; Maryns, 2005, 2006; Maryns & Blommaert, 2002). These studies have centred not on legal advice, but on asylum interviews and court hearings - official gatekeeping interactions between

applicants and decision-making institutional representatives. They reveal structural inequalities in intercultural and multilingual communication, resulting in applicants' narratives not being heard. These can be important issues for legal advisors to consider in asylum and refugee legal advice settings, and merit brief discussion here.

Maryns (2006) carried out an in-depth study of interactions between Belgian immigration officers and judges, and asylum applicants from various parts of Africa. In her analysis of asylum interviews, Maryns highlights issues connected to multilingualism, such as misunderstandings arising in lingua franca interactions (where both parties use an L2 to communicate), mistranslations, misunderstandings of cultural references in the narrative, and the provision of inadequate interpretation services due to the institution's unrealistic expectations that applicants will have full monolingual competency in a standard official language. These problems all hindered effective communication and resulted in applicants' accounts being inaccurately recorded in the official record of the interview, written by the interviewing officer and later used by someone else to make a decision on asylum status. Good (2007) highlights that problems around language, and lack of awareness of language issues, also exist in the UK asylum process, and points out the importance of lawyers checking official interview records with their clients quickly, and raising early objections to any mistakes.

Maryns' (2006) analysis additionally focuses on the entextualization (Bauman & Briggs, 1990) and consequent transformation of the narratives told by asylum applicants whose interviews she witnessed and recorded. These narratives were linguistically transformed from what was often a fragmented and diverse oral linguistic repertoire into formal standard written Dutch; content was altered and reorganised to present a chronological presentation of factual matters only; and stylistic editing removed emotional aspects and (often multilingual) narrative features to render the account more "objective". Thus transformed to fit the institutional mould, the applicants' accounts of fear of persecution were counter-productively rendered less believable, thereby damaging the applicants' chances of being found credible and being granted asylum. Maryns' findings reflect research discussed in section 2.1 about language use in the law, and highlight a structural inequity, illustrating the serious consequences that can arise from the "translation" of a personal asylum narrative into a legally acceptable format, particularly across languages and cultures (see also Blommaert, 2001; Verschueren, 2008).

Maryns and Blommaert (2002) use the concept of speaker pretextuality, or socially acquired linguistic and discursive knowledge and meta-knowledge about how to interact appropriately to the situation, to theorise the communicative inequality facing asylum seekers interacting with institutional officials. They argue that 'pretextual gaps' (p. 14), or differences in the pre-existing

communicative resources and meta-communicative knowledge held by the applicant and the interviewing officer respectively, prejudice asylum applicants in the interaction because applicants are unable either to anticipate, or to produce, the dominant communicative style and form that is expected by the institution. Maryns (2006) argues that the greater the pretextual gap between applicant and institutional officer, the more performative work (in the Hymesian sense of narrative performance, or orally delivering a narrative in a meaningful or impactful way (Hymes, 1981)) applicants must do in their communication to try and achieve understanding; but that performance is often not possible within the constrained spaces for self-expression applicants are given in such interactions. The argument made by Maryns and Blommaert (2002), and later Maryns (2006), is that the imposition of institutionally-sanctioned communicative norms by the institution is unfair and unjust. Pretextual gaps are a useful way of conceptualising communicative differences, their connection to the social contexts that individuals circulate within, and how they can result in interactional power imbalances; they can equally be applied to think about the questions of institutional literacy, discussed in section 2.1 above, that asylum and refugee lawyers must be aware of, and support their clients with.

As the studies discussed above show, where lawyer and client (or applicant and institutional officer) do not share a common language, interpreters are called on to mediate the communication between them. The next section 2.4 explores the role of the interpreter in the context of asylum and refugee law.

## **2.4 Interpreters in legal advice and asylum communication**

In this section I focus on what happens when an interpreter is involved in legal-lay communication and interaction becomes triadic, rather than dyadic. In sections 2.4.1 and 2.4.2 I discuss the nature of the interpreter's role, differing perceptions of it, and the issues around training and qualification of interpreters in the UK. In section 2.4.3 I then consider issues arising from literature discussing interpreting in two contexts relevant to this study: in the legal advice meeting, and in interactions within institutional asylum processes.

### **2.4.1 Public service interpreting and the interpreter's role**

Interpreting within lay-institutional interactions is described using a variety of terms. Some of these foreground the context in which interpreting takes place, e.g., 'community interpreting' (Hale, 2007, p. 28; Wadensjö, 1998, p. 49) and 'public service interpreting' (Corsellis, 2008, p. 4). Others foreground the mode of interpreting normally employed as a means of differentiating it from conference interpreting, e.g., 'two-way consecutive' interpreting (Corsellis, 2008, p. 5),

‘dialogue interpreting’ (Mason, 2006)). I use public service interpreting here, because it is the term most frequently used in the UK (Pöchhacker, 2004).

Unlike conference interpreting, in which simultaneous interpreting through headphones is provided by interpreters in booths physically separated from the principal speakers (Pöchhacker, 2004), public service interpreting impacts directly on interactional dynamics between the principal speakers. The interpreter is normally physically present with the interlocutors (although sometimes services are provided by telephone or video link, Solicitors Regulation Authority, 2016), and is an active party to the interaction, taking consecutive turns in the talk. The interpreter works bilaterally into and out of their first language, and may be called upon at short notice to interpret in a variety of different contexts and situations, dealing with a potentially wide range of linguistic varieties (Corsellis, 2008). It is a challenging role which puts the interpreter front of stage, with significant responsibility for what is often high-stakes communication.

Wadensjö’s (1998) conceptualisation of (public service) interpreting as interaction is probably the most widely accepted model of this type of interpreting amongst applied linguists. Wadensjö’s theorization recognizes the interpreter’s central and active role in what are mediated communications, and the consequences this may have for important aspects of communication such as speaker positioning and interactional control: she argues that triadic, interpreted interaction is much more complex than is conventionally acknowledged. Wadensjö extends Goffman’s (1981b) participation frameworks model, which sets out the different positionings (animator, voicing the message only; author, responsible for formulating how the message is uttered; and principal, responsible for the meaning that is expressed) that speakers may occupy in an interaction, to also consider a range of different positionings that listeners – and specifically, interpreters – may occupy, and the diverse effects of such positionings on the interaction.

Institutional users of interpreting services often have a less complex view of interpreters, seeing them more as ‘neutral’ machines of linguistic conversion’ (Davidson, 2010, p. 173) who ‘merely convey messages’ (p. 156) between the two main speakers and who do not (or alternatively, should not) impact on interactional dynamics. This mismatch in understandings of interpreter-mediated communication can lead to communicative tensions when interpreters are used (see e.g., Davidson, 2010; Moyer, 2011). This is particularly problematic in settings where dyadic relationships are important, such as in legal and medical interactions (Corsellis, 2008), as is discussed below in section 2.4.3.

#### **2.4.2 Public service interpreting training**



The professionalization of the field of public service interpreting is a relatively recent phenomenon worldwide, and is ongoing in the UK (Corsellis, 2008). In the UK, interpreting work in the courts requires the Diploma in Public Service Interpreting (DPSI), a qualification at Level 6 of the UK Qualifications and Credit Framework (undergraduate degree level) that is accredited and examined nationwide by the UK Chartered Institute of Linguists. Interpreting within Home Office environments such as UKVI asylum interviews also requires the DPSI or an equivalent level qualification, and the National Register of Public Service Interpreters (NRPSI), a not-for-profit organisation, maintains a (voluntary) register of individuals with a Level 6 or above interpreting qualification to facilitate recruitment of appropriately qualified individuals (National Register of Public Service Interpreters, 2017). However in many other public service contexts, including legal advice interactions, interpreting provision is not currently regulated and can be undertaken without any professional qualifications (Corsellis, 2008). As a result, standards of interpreting in legal advice vary greatly and there is often a lack of trained and qualified interpreters available.

A training and qualification framework below Level 6 does exist (see Appendix D for details), but many organisations using interpreting services are unaware of this, and similarly unaware of what experience and qualifications the interpreters working with them have. The label 'professional interpreter' can be used in a range of ways, and does not necessarily mean that an individual is qualified (National Register of Public Service Interpreters, 2017). For example, an SRA report of an audit of asylum legal advice services (Solicitors Regulation Authority, 2016) uses the label 'professional' (p. 34) to mean a paid 'agency or freelance' (p. 34) interpreter, referring to the fact that the work they do is remunerated rather than what qualifications they may have. According to this report, only 'some' (p. 34) of the 52 legal firms interviewed required interpreters to be registered with the NRPSI. Beyond this, no reference is made in the SRA's report to law firms checking interpreters' qualifications when hiring interpreters for asylum legal advice.

### **2.4.3 Interpreters in legal advice and asylum interactions**

Even though interpreters are frequently used in legal advice, and particularly in asylum and refugee law advice (Beswick, 2015; Migration Work CIC et al., 2016; Solicitors Regulation Authority, 2016), very few empirical studies have examined the interpreter role in the specific legal advice context in any detail. Ahmad (2007) draws on his involvement as supervising law professor in the US student clinical law context to offer a thorough auto-ethnographic discussion of issues he has encountered in interpreted social welfare lawyer-client advice interactions; and Maltby (2010) examines interpreter codes of conduct from UK asylum NGO organisations using critical discourse analysis. Two further studies, Gibb and Good (2014) drawing on interviews and Inghilleri (2007, 2012) reporting on an ethnographic study, examine the experiences of

interpreters working in the UK asylum law context more broadly, including both legal advice interactions and institutional interactions such as UKVI asylum interviews and court hearings. Because these few studies highlight issues that are also evident in the broader literature covering interpreting in institutional asylum processes (Jacquemet, 2015; Mason, 2006; Pöllabauer, 2006, 2007, 2015; Rycroft, 2005), this section draws from literature dealing with public service interpreting in both of these contexts to outline the issues arising.

### **Issues connected with the nature of legal discourse**

Gibb and Good (2014) interviewed interpreters working in asylum interviews, courts and legal advice settings in the UK and France about communicative challenges in their work. Participating interpreters highlighted a range of issues, including that the use of different interpreters at different stages of one individual's asylum application procedure resulted in a problematic lack of consistency in the translations provided, and that the need for speaking turns to be short for accurate consecutive interpreting conflicts with the longer turns needed for narrative flow and coherence in the telling of an applicant's account of their grounds for asylum. These are problematic in the legal context because of the demands of legal discourse for consistency and 'truth', and for a coherent narrative on the part of the applicant (see section 2.1).

In the asylum and refugee context in particular, Jacquemet notes how the institutional search for 'truth' (Jacquemet, 2015, p. 74) across linguistic and cultural divides manifests itself through the search for 'denotational-referential accuracy', or in other words by demands for the consistent provision of supposedly concrete, verifiable facts such as names and dates. Even these are problematic for interpreters, however, due to inconsistent practices in the transliteration of personal and geographic place names from non-Roman script languages into Roman scripts, and the use of different calendars in different linguistic and cultural systems (Jacquemet, 2015). Detailed knowledge of the relevant languages and cultural contexts is crucial here, and Good (2007, 2011) highlights the role that anthropologists are regularly asked to play as expert (cultural and linguistic) witnesses in asylum appeal hearings to resolve interpreting errors made during an asylum claim.

### **Interpreting codes of conduct**

Although ethics codes normally require interpreters to use the same register as the original speaker, Gibb and Good's (2014) participant interpreters reported themselves as sometimes reformulating the applicant's words into a higher, more institutionally acceptable register in order not to appear professionally incompetent themselves or not to damage the applicant's credibility – this could be construed as an act of professional mediation (see section 2.1.3). A further issue

raised was whether interpreters should actively intervene to correct a cultural or linguistic misunderstanding that they can see has arisen; contradictory guidance about this is given to interpreters in different sets of codes of conduct, leading to different and inconsistent outcomes in different institutional settings.

Interpreting codes of conduct usually require impartiality (Corsellis, 2008), but studies have shown that in institutional asylum settings, interpreters can be asked, or may choose, to behave far from impartially. Jacquemet (2010) reported the institutionally-sanctioned practice within UNHCR-run refugee camps in Europe of interpreters shifting role entirely and taking over the interviewer function in asylum interviews in order to save everyone time. Rycroft's (2005) auto-ethnographic account of her work as an interpreter in the UK asylum system reported that the active intervention of the interpreter to highlight issues of witness credibility was sometimes expected by UKVI officers. Pöllabauer (2006) found through a linguistic analysis of interaction in Austrian asylum hearings that interpreters tended to co-operate more with immigration officers than with asylum applicants in interactions, reflecting hidden bias in favour of the institution which was employing them. These studies show that whether institutionally-imposed or freely chosen through conscious or subconscious mechanisms, interpreters in asylum decision-making processes do not always occupy a neutral position. Inghilleri (2007, 2012), whose research focus was the socio-political positioning of the interpreter in the UK asylum procedure, argues that 'abstract principles like partisanship, impartiality, and neutrality are largely irrelevant as these are normally understood' in the 'complex cultural, political, and legal maze of an asylum claim' (Inghilleri, 2012, p. 98).

Making a related point in the asylum advice context, Maltby's (2010) textual analysis of the contrasting interpreting policies of two UK asylum support NGOs, highlights how one organisation's code of conduct for interpreters required interpreters to adopt a position of advocate for the organisation. Maltby reveals how the supposedly neutral and impartial role of the interpreter is a 'relative concept' (p. 231), a construction that is dependent on ideologies of language within organisations, and he urges interpreters working in asylum advice to view themselves as more active participants in 'an ideologically motivated institutional power structure' (p. 231).

### **Positionality of interpreters in legal advice**

As mentioned in section 2.4.1, interpreting is problematic for the prevailing view of the lawyer-client relationship as founded on mutual trust and confidence, and for the client-centred models of communication discussed in section 2.2 above, which emphasise foregrounding the client

voice, and active listening and responsiveness by the lawyer (Ahmad, 2007). The interpreting scholar Corsellis advocates that interpreters working in the legal advice context should not become active third parties to the information exchange, observing that the 'lawyer/client relationship...is an integral part of the professional process and the interpreter should promote this relationship rather than impede it' (Corsellis, 2008, pp. 45–6). However, the difficulty, almost impossibility, of this task for interpreters is highlighted by several others, arguing that (whether or not they accept this) the interpreter plays an active role as an engaged participant in dialogue and is not merely a neutral conduit for communication (Davidson, 2010; Inghilleri, 2012; Wadensjö, 1998).

Ahmad (2007) raises issues around ethical standards, positionality, and training of legal advice interpreters in his discussion of working in *pro bono* social welfare law ("poverty lawyering", Ahmad, 2007, p. 999) in the student advice clinic. Ahmad points out that due to funding, resource and skills constraints, untrained volunteer interpreters who may be even less equipped than trained interpreters to handle the complexities of the role, often work in such legal advice contexts. He highlights how untrained interpreters in particular can tend to adopt other participants' roles in the interaction, taking on a 'guardian (co-client)' role in support of the client, or an 'advocate (co-counsel)' role as an additional advisor to the client, with confusing consequences (Ahmad, 2007, p. 1004). In this situation, the identity of the originator (the principal, in Goffman's (1981b) terms) of advisory or factual statements may be unclear to the party to whom the statement is directed, complicating the formation of relationships and the processes of seeking and giving legal advice.

Compounding this issue of positionality is the 'black box problem' (Ahmad, 2007, p. 1036) of the invisibility of interpreting errors. That is, it is never possible for lawyer or client to know how accurate an interpretation is, because 'neither possesses the linguistic abilities to verify the integrity of the interpretation' (p. 1036). In most legal advice contexts it is not financially feasible to have two interpreters present to quality check each others' work (the solution to this problem that is very occasionally employed in courtroom and asylum interview contexts). It can be seen that in interpreted legal advice the interpreter may have considerable interactional power; interpreter competence, trust in the interpreter's ability, and professional ethics are thus key issues.

### **The connection between language, and context(s) of interaction**

Ahmad (2007) also raises the fact that speakers often use referential language, which can only be understood by drawing on relevant context to infer (pragmatic) meaning, as difficult in

interpreted advice interactions. This parallels Jacquemet's (2015) argument that applicants' use of referential terms, or 'shifters' ('linguistic signs which shift reference from occasion to occasion or from one utterance to the next', p. 74), in their asylum accounts is problematic, since contextual knowledge is needed to disambiguate them (Hymes, 1974; Thomas, 1983). For example, the meaning of kinship terms can shift according to context, and can additionally vary across languages: Good (2007, p. 180) explains that the Tamil terms *annan* (older brother, or senior parallel cousin) and *tampi* (younger brother, or junior parallel cousin), differentiate by age rather than exact family relationship, and can be inconsistently translated into English if the referential object is not clear from the context, or explicitly clarified. This has been termed the 'underdeterminacy' (Mason, 2006, p. 360 citing Carston, 2002) of language – the semantic meaning of a word is rarely enough for full understanding, and it is necessary to draw on contexts, and assumptions, to infer meaning. Ahmad (2007) points out that interlocutors need a good level of shared contextual knowledge in order to correctly interpret each others' inferential meanings.

To address this, Ahmad (2007) therefore advocates the use in legal advice interpreting of 'properly trained community interpreters' (p. 1004) originating from the same linguistic and cultural community as the client, unless there are valid reasons to avoid this (e.g., where a client is fleeing persecution endemic in his or her own community). Ahmad's claim is that the high level of shared context between such an interpreter and client will enable understanding. The essence of this argument is valid, but in fact this is a question of *increasing the efficiency* of communication rather than actually *enabling* understanding. Where there is a greater 'pretextual difference' (Maryns, 2006, p. 6), or lack of shared context between interlocutors, achieving understanding is not impossible; it simply requires a greater level of mutual negotiation of meaning through explicit verbal explanation of context, checking of understanding, and repairs of misunderstanding to achieve. Some of this work (and also therefore, time) can be saved where interpreter and client come from the same cultural background (as is often the case with volunteer interpreters). Other issues may, however, surface which impede free communication where client and interpreter come from the same community, such as cultural conventions about the nature of appropriate communication between individuals from different generations, or genders .

Drawing on analysis of an interpreted interview between a UKVI official and an immigrant at a UKVI border post, Mason (2006) highlights a further complexity that can arise in drawing on context in interpreting, particularly in time-pressured institutional environments such as asylum interviews. Mason adopts a conceptualisation of context in interaction as 'evolving', 'intra-interactive', and 'a dynamic, evolving set of assumptions', not just 'a stable set of situational constraints' (Mason, 2006, pp. 359–60), according to which the context that is relevant to an

interaction is continually signalled and negotiated in talk, and evolves as the talk progresses (see further section 2.5.2). Where time is pressured, Mason's analysis demonstrates that if interpreters adopt an 'efficiency-focused approach' (p. 370), editing out parts of talk that they judge not important to the overall purpose of the interaction, 'two distinct discourse worlds' (p. 370) may emerge. This is because speakers' assumptions that everyone else is picking up the contextual indications they have given out are not borne out by the reality of the mediated conversation. Instead, 'two partly separate micro-contexts' (p. 370) of the interaction may emerge, one in each language. Because of the black box problem referred to above, however, this is only visible to the interpreter, who may end up conducting two increasingly divergent conversations. Again, this results in the interpreter having effective interactional control. Mason argues that the interpreter's role should include ensuring that understandings of the evolving interactional context are, and remain, shared between all participants to the interaction through working to make each party's assumptions explicit to the other(s) in dialogue.

### **Valorisation and professionalization of the interpreter role**

Ahmad (2007) advocates a reconceptualization of the lawyer-client relationship as 'a more porous, though still privileged, relationship in which a range of mediating forces is recognized, negotiated, and embraced' (Ahmad, 2007, p. 1004), interpreters being a key mediating force. Ahmad also echoes calls by Gibbons (2003) for the interpreter to be expressly treated by all parties as an 'expert' available for consultation on linguistic and cultural matters which impact on lawyer-client communication (Ahmad, 2007, p. 1059). In this way, the interpreter's unique position and active role in the interaction can be recognized, professionalized, and explicitly managed, by allocating him or her an explicit role of 'linguistic and cultural authority' (p. 1004), a role that Gibbons (2003) argues will be recognisable to lawyers familiar with the role of expert witness within the court system. This suggestion may go some way to raising all parties' awareness of the complexity of mediated communication, but does nothing to address the power imbalance in favour of the interpreter that the "black box problem" encapsulates.

The professional skills and ethics of interpreters are central in managing this power imbalance, and like Gibbons (2003), Ahmad (2007) advocates interpreter training and professional qualifications as the best solution. If legal interpreters are equipped with appropriate skills, self-awareness, and ethical standards, they will acknowledge the importance of working within their own competency levels, and disclosing to clients if the work goes beyond these. Correspondingly, if this way of working becomes a standard and a requirement, service users can be confident in the quality of the interpreting service. Supporting this position, Corsellis (2008) argues convincingly that a professional framework for interpreters similar to that operating in regulated

professions such as law and medicine is necessary. As discussed in section 2.2 above, the UK is still some way away from this level of professionalism and regulation across all public service interpreting. Meanwhile, this study has the potential to investigate whether, and to what extent, the issues discussed in this section are in fact problematic in the context of interpreted asylum and refugee legal advice-giving in the UK.

## 2.5 Theorizing the study's research questions

Thus far, this literature review has demonstrated that there are substantial differences between the **discourse styles and types of language** used in legal contexts versus non-legal contexts, and that the communicative norms and language ideologies of legal institutions tend to be imposed on individuals engaging with such institutions. It has also shown that this, combined with different levels of **contextual knowledge** about legal processes and practices – or different levels of 'institutional literacy' (Slembrouck, 2011, p. 158) concerning institutional cultures – can give rise to **power imbalances and asymmetry in interactions** between laypeople and legal professionals or institutional officials. These differences and dynamics of interactional power are intensified when communication is multilingual or intercultural, such as in the asylum and refugee law setting, such that individuals from minority linguistic and cultural backgrounds can be structurally disadvantaged.

The review has also shown that within legal advice-giving settings (in contrast to gatekeeping settings such as the asylum interview), the prevailing ideology of interaction is a participatory one in which the lawyer attends to the client's concerns even where not legally relevant; modifies legal language to make it accessible to the client; and gives the client a voice. Empirical studies of communication in legal advice-giving, however, show that the actual nature of the interaction is highly context-dependent. The degree of **relational work** undertaken, the **type of language** used, the **communicative resources drawn upon** (e.g., speech, paralinguistic signals, documents and texts, interpreters), and the **dynamics of control and agency** are all influenced by the **nature of the legal issue** and the **context of the institutional structures** surrounding the advice-giving activity. Very little research exists about the communication practices of lawyers working with immigrant populations, who must not only deal with the existing legal-lay divide, but also address linguistic and cultural differences, in their advice-giving activities. It is clear from the literature discussed that **institutional contexts and language ideologies** are important considerations, and that where interpreters are a part of legal advice interaction questions of **role and positionality**, **interactional control**, and **contextual knowledge and competence** in negotiating understanding come to the fore.

As set out in Chapter One, asylum and refugee legal advice is perhaps the area of legal practice where these issues of multilingual and intercultural communication are most evident and most critical, and the need for improved understandings of how clients and lawyers (with the involvement of interpreters where relevant) can communicate successfully across cultural and linguistic borders is greatest. This concern motivates the main research question framing the study:

**Main RQ:** How do refugees and asylum applicants to the UK, lawyers, and interpreters communicate interculturally and multilingually with one another during legal advice meetings about asylum and family reunion law?

Drawing from the issues highlighted above, the study focuses attention on the range of communicative resources that lawyers, clients and interpreters use, and how they are used, in legal advice; on investigating the nature and impact of the contexts which are relevant to these advice interactions; and on examining the dynamics of control and agency that exist within them. These interrelated aspects of the communication process are what underlie the subsidiary research questions proposed for the study:

**Subsidiary RQs:**

- RQ1.1** What linguistic, languacultural and discursive resources do each of the parties bring to the interaction in these meetings? How are these drawn upon and made use of in the interaction? What oral (linguistic and paralinguistic), written and other means of communication are used?
- RQ1.2** What contexts (social, cultural, political, institutional, spatial or geographical, historical, ideological, interactional role-related, and other) frame, and are relevant to, these meetings? How do they impact on the communication taking place?
- RQ1.3** How do individuals exert and resist control, and exercise agency through their communication in these meetings? Are power dynamics evident in the interaction in any other ways?

How, then, do I theorise these interlinked key concepts of means of communication, context of communication, and power within communication? In sections 2.5.1, 2.5.2, and 2.5.3 I outline the theoretical literature supporting my conceptualization of the study's underlying constructs.



### 2.5.1 Means of communication (language and its relation to culture)

As is clear from the literature discussed, several different aspects of communication and language use are of importance to understanding how individuals communicate in legal advice meetings. The communicative resources used in advice meetings, including aspects such as vocabulary; register and communicative style; discursive structure of interactions; and modes of communication drawn upon, merit close examination in this study. I also approach language use as offering perspectives on the cultural orientations of individuals, because (as stated in Chapter One, and explored in relation to the law in section 2.1) I see culture as to a large degree expressed, embodied and symbolized through ways of using language (Gee, 2012; Kramsch, 1998; Scollon et al., 2012). I draw on Risager's (2006) model of the 'language-culture nexus' (p. 196) to conceptualize and describe language and its relationship to culture, because this model provides a useful set of concepts to more precisely express the complex relationship between language and culture.

Risager (2006) draws on sociolinguistic approaches to language and a (general) view of culture situated in cultural anthropology concerned with globalization and complexity (Hannerz, 1992). For Risager, language and linguistically-expressed culture are bound together in a complex multidimensional relationship comprising three layers: the **linguistic**, the **linguacultural**, and the **discursive**; and two dimensions, (internal, cognitive) **resources** and (external, behavioural) **practices**. Starting at the linguistic level, Risager distinguishes between the following dimensions:

- '**linguistic resources**' (Risager, 2006, p. 79) – a cognitive construct; the internal or psychological language-related resources that people have available to them for communication. These include knowledge of linguistic systems, paralanguage and kinesics; they also incorporate 'metalinguistic attitudes and beliefs' (p. 81), or language ideologies, which individuals draw on when communicating or interpreting others' communication.
- '**linguistic practices**' (p. 74) – a behavioural construct; the visible or audible parts of communication, including behaviours such as speech, writing, signing, and/or production of 'paralanguage and (language-accompanying and -complementing) kinesics' (p. 77). They are externalized linguistic resources.

Risager (2006) also points out that a third, 'artificial' (p. 74) conceptual locus of language exists in the '**language system**' (p.81), the system-oriented discursive and metalinguistic construction of 'language' in the sense of the 'English language' or 'legal language'. The language system is a secondary social construct used by individuals to make sense of how linguistic resources and

practices (which are primary constructs) work in a simplified way. The construct is also used within society 'to control and regulate linguistic practice' (p. 84) through 'linguistic prescription and standardisation, language policy, suppression or favourisation respectively of particular languages and language varieties, etc.' (p. 84).

Risager (2006) argues that the nexus between language and culture is located in the two intermediate levels of resources and practices, the **linguacultural** and the **discursive**, both of which build on linguistic resources and practices. Risager (2006, drawing on Agar, 1994; Friedrich, 1989) defines **linguacultural resources and practices** (p. 110-134) as those elements of linguistic resources and practices in particular linguistic systems which incorporate aspects of cultural (i.e., social group) identity. For example, the expression お疲れ様です (*o tsukare sama desu*) in Japanese has a literal (recreating the source language) English translation of 'you [honorific form] are a tired person', but is pragmatically (approximating the target language) translated as 'well done and thank you for your hard work'. It is a frequently used idiomatic term tied to cultural conceptions of the respect to be accorded to hard work commonly held in Japanese society, and demonstrates the close connection between cultural beliefs and attitudes, and linguistic expressions. The extent of a person's linguacultural resources and practices vary depending on whether they are using their L1 or an L2. In legal communication, specialized terms ('legalese', Gibbons, 2003, p. 198) can be characterised as languaculture, associated with and expressing a legal culture learned as a second culture and language (C2 and L2) through professional training.

**Discursive resources and practices** (Risager, 2006, p. 144) are linguistic resources and practices used to express or understand discourses circulating in a particular group or society, and across societies in cases where the relevant discourses circulate more widely. Risager uses the Foucauldian conception of discourse, 'a particular way of constructing a subject-matter' (Fairclough, 1992, p. 128), or a way of talking about something which implies a specific perspective on that subject-matter. This level of meaning – the expression of ideas and viewpoints – sits above any particular linguistic system, although linguistic and sometimes also linguacultural resources are used to express them. An individual's discursive resources include:

knowledge of a ... world of verbalised themes, points of view and positions; insight into which subjects are taboo; knowledge of who can be expected to be of the [sic] opinion, and express what in which situations; ... ability ... to express, formulate and develop discourses ... ; reflexive capacity to understand own and other people's positions in relation to social and political reality; [and] strategic abilities to shape and administer one's own subjectivity in collaboration or conflict with others. (Risager, 2006, p. 144)

Discursive resources and practices therefore concern knowledge of values and beliefs, which may circulate within or across social groups, and linguistic and languacultural ways of expressing and constructing these. They are used in the construction, shaping and signalling of cultures. In a legal context, the expected format and content of a witness statement would be an example of a discursive resource (a form of cultural/linguistic knowledge) acquired during legal training and shared amongst lawyers.

Risager (2006) also recognizes a non-linguistic dimension of **other cultural resources and practices**, incorporating means of cultural expression such as the use of artefacts and music in signalling group identity and affiliation. Since her focus is on explicating the relationship between language (which she defines as verbal communication with accompanying paralanguage and kinesics) and culture, Risager does not consider these forms of communication in much detail, but a wider conceptualization of communication extending beyond the linguistic would take this dimension into account.

Drawing on Risager (2006), culture is for me, therefore, both constructed and signalled through linguistic, languacultural, discursive and other cultural resources and practices, which indicate and shape affiliation with social group identity positions. Importantly for this study, Risager views the use of communicative practices within 'communicative events' (p. 185) as taking place in a larger network of 'flows' (p. 16) of resources and practices around 'the global ecumene' (p. 67) as a consequence of human migration patterns, technological interconnectedness, and global trade in goods and services. A communicative event in a monolingual, monocultural situation may well exhibit a 'convergent language-culture nexus' (p. 188), but intercultural and multilingual interactions such as those taking place in asylum and refugee legal advice meetings, exhibit a more 'divergent language-culture nexus' (p. 187) which actually or potentially engages a complex range of first and second linguistic, languacultural, discursive, and other cultural resources and practices. The exact mix depends on the resources available to the participants, the affinities that exist between them and the possibilities for communication that are entailed.

I follow Risager (2006) in considering that in a close study of communicative events across languages and cultures, the overly-broad terms 'language' and 'culture' should be eschewed in favour of the vocabulary of linguistic, languacultural, and discursive resources and practices that more precisely describes the language-culture nexus. This approach resonates with Gee (2012) and Scollon et al. (2012), who in analysing how culture is constructed and operates through language, both choose to use 'discourse' instead of the term 'culture'. Adopting this more nuanced approach also assists in research: practices are constructs that are observable in interaction, and which can be taken as evidence of people's resources; they can provide evidence

of at least some of an individual's cultural identifications and how these are brought into or made relevant in interaction.

### **2.5.2 Contexts of communication**

As observed in Chapter One, communication is a social phenomenon – it takes place within a social context, which is drawn upon in communication (Hymes, 1974). "Context" is a metaphor for an aspect or aspects of the social world, a construct used to address 'the way in which linguistic forms – 'text' – become part of, get integrated in, or become constitutive of larger activities in the social world' (Blommaert, 2005, p. 39). Language (text) is always associated with context, because 'the social nature of the utterance' (Voloshinov, 1973, p. 93) is that language is a product of the social world:

The organizing center of any utterance, of any experience, is not within but outside – in the social milieu surrounding the individual being ... Utterance as such is wholly a product of social interaction, both of the immediate sort as determined by the circumstances of the discourse, and of the more general kind, as determined by the whole aggregate of conditions under which any given community of speakers operates. (Voloshinov, 1973, p. 93)

Thus, knowledge of context is necessary for a complete understanding of linguistic, languacultural or discursive practices: 'context is what we need to know about in order to properly understand the event, action or discourse' (Tracy, 1998, p. 3 citing van Dijk, 1997, p. 11). The challenges this presents for interpreted legal advice interaction, which encompass questions of knowledge about the cultural context(s) that a speaker draws on in communication, have been discussed in section 2.4.3 above.

As the work of Gumperz (1982b, 1982a, 1992, 1999) in interactional sociolinguistics demonstrates, the impact of context(s) within communication can be analysed linguistically by identifying the use and effect of 'contextualization cues' (Gumperz, 1999, p. 461) in talk. Gumperz aimed 'to find empirical ways of showing through discourse analysis whether or not interpretive procedures are shared' (p. 458) between interactants. By combining Hymes' (1974) ethnography of communication, pragmatic discourse analysis, and conversation analytic techniques, Gumperz developed tools for analysing how contextualization cues are drawn upon and interpreted by individuals 'through their own culturally shaped background knowledge' in deriving meaning from speech, a process he called 'conversational inference' (Gumperz, 1999, p. 458).

Contextualization cues are defined as ‘any verbal sign which when processed in co-occurrence with symbolic grammatical and lexical signs serves to construct the contextual ground for situated interpretation, and thereby affects how constituent messages are understood’ (p. 461). Although this definition focuses on the verbal, elsewhere Gumperz acknowledges the importance of non-verbal cues; others have studied how contextualization also takes place through non-verbal cues such as gaze, gesture, and posture, used to signal aspects of context (Auer & Di Luzio, 1992). Gumperz’s research on interactions in workplace settings in Britain uncovered hidden misunderstandings arising in ‘interethnic communication’ (Gumperz, 1982a, p. 172) between individuals who both spoke English well, but whose underlying schemas for interpretation of verbal contextualization cues differed because of their different sociocultural backgrounds. His work shows that communication challenges deriving from a lack of shared understandings of context affects not only multilingual interactions, but same-language intercultural communication, and has contributed to understanding the issues around institutional literacy discussed earlier in this chapter.

Roberts argues that ‘contextual considerations are particularly significant in intercultural communication because of the reliance on contextual knowledge by the minority speakers...there is more weight given to the contextual’ (Roberts, 1996a, p. 24). Roberts highlights that shared understandings of context (e.g., the usual content of a routine interaction) are a resource for achieving understanding in (dyadic) intercultural communication, for example by minority speakers using an L2 to interact with institutional representatives using their L1. Roberts draws on Goffman’s concept of ‘frames’, or ‘principles of organization which govern events – at least social ones – and our subjective involvement in them’ (Goffman, 1974, p. 11), to explain this, commenting that ‘shared frames are central to creating the conditions for shared interpretation’ (Roberts, 1996a, p. 24), yet that shared frames are often lacking in intercultural communication.

Investigating and identifying the contexts of interactions, and what impact they have, is therefore an important aspect of studying intercultural communication. However, the ‘heterogeneous nature’ (Fetzer, 2010, p. 13) of context makes it hard to specify exactly what researchers should be looking for. In the excerpt cited above, Voloshinov highlights two dimensions which underpin the academic approach to context: the **micro-context** of the immediate conversation, and the broader **macro-context** of the social conditions surrounding an interaction. Different fields within the study of language and social interaction have focused attention on different parts of this micro-macro spectrum, with for example critical discourse analysts (Fairclough, 1992; Wodak, 2001) focusing on the macro-context, and conversation analysts (Sacks, Schegloff, & Jefferson, 1974; ten Have, 2007) focusing on the micro-context (see also Chapter Three, section 3.2.3).

The linear conceptualization of context as a spectrum, one end of which is 'local' to the text, or 'micro', and the other 'distant' from the text, or 'macro', brought with it rather fixed models of the text-context relationship ('text' here being a metaphor for language). These included the context-as-container metaphor used within critical discourse analysis of situational context surrounding, and shaping the meaning of, text (see e.g., Fairclough, 2001), and the figure-ground metaphor of text as the figure or focus of study, containing most of the meaning, and context as the background surrounding the text, contributing secondary meanings (Duranti & Goodwin, 1992). This linear conceptualisation has been critiqued in contemporary scholarship (Canagarajah, 2017), for not taking account of within-person aspects of social life, such as cognition, as context (Potter, 1998); failing to acknowledge the part that participants, through language, play in shaping context, by making a certain context relevant and framing its relationship to the interaction (Buttny, 1998; Mason, 2006); and failing to recognize that a multiplicity of contexts, distant from each other in time, space, form and character, may be or become relevant or irrelevant to an interaction in an unpredictable, chaotic manner (Blommaert, 2005; Kramsch & Whiteside, 2008; Whiteside, 2013). These critiques lead to a problematic theoretical void for applied linguistics, expressed thus by Canagarajah (2017, p. 10): 'what is the scale, scope, or boundary of the interaction that should be analysed? In short, what is a relevant unit of analysis for communicative interactions?'

The view of context adopted in this study reflects the latter two critiques. Firstly, I see contexts as not solely brought-along (as is the traditional view), but also as brought-about (Auer, 1992). Contexts are both external and internal to the talk, seen 'as existing both independently of the text and as (re)created in and through the text' (Buttny, 1998, p. 46). In this view, many potential contexts are latent until activated in an interaction, as Roberts explains:

Contextual information is frequently potential rather than explicit. In other words it does not appear as readily available to participants and/or is not necessarily relevant and therefore attended to at any one time ... such information will have more or less marked traces on the surface across large stretches of discourse and may emerge or not according to the participants' orientation. (Roberts, 1996a, p. 24).

Moreover, Blommaert (2005) points out that contexts not only have to be brought into an interaction by one participant, but also somehow acknowledged as meaningful by the other, to contribute in the dialogic negotiation of meaning. The contexts applying to an interaction are thus continuously signalled and negotiated in talk, evolving as the talk progresses (Mason, 2006).

In multilingual and intercultural communication, the type and nature of the contexts that are brought in to the interaction may become the subject of negotiation. In the context of the refugee and asylum advice meetings in this study, power relationships may come into play in this arena (Blommaert, 2005), through questions arising such as who has rights to introduce which contexts into the interaction, and to what extent this may be resisted.

Secondly, I do not see the spatial or temporal distance of a context from the interaction as important for whether it is relevant to the interaction. Blommaert notes that 'context comes in various shapes and operates at various levels from the infinitely small to the infinitely big' (Blommaert, 2005, p. 40). One conceptualization of context which recognizes this, as well as the unpredictability of how contexts may enter into an interaction, is the ecological approach to analysing multilingual and intercultural interaction (Kramsch & Uryu, 2012; Kramsch & Whiteside, 2008; Whiteside, 2013). The ecological approach advances a complexified view of context. It recognizes that there is always a vast complex of interrelated contexts of different kinds surrounding us, situated at different levels of the social order, times, places, and spaces (Blommaert, 2005, 2010). Each one of these can be (but does not have to be) relevant to interactions as a brought-along context, or become relevant as a brought-about context. Contexts are signalled in contextualization work, which may be linguistic or may be through role-behaviour or setting (i.e. communicative norms). In this model, contexts are not conceptualized in terms of hierarchical linear inter-relationships, but rather as more akin to a complex network of intricately connected and interrelated constructs which can be variously called upon in interactions to support the negotiation of meaning. I like to think about context in these terms, since as a conceptualization which recognizes mobility and complexity, it is particularly suited to today's globally interconnected communicative landscape. It can potentially be fruitfully applied to interactions such as the refugee and asylum legal advice meetings the subject of this study, which in accordance with Risager's (2006) model may exhibit a divergent language-culture nexus.

### **2.5.3 Power in multilingual and intercultural institutional communication**

Critical intercultural communication scholars see culture as 'part of macro social practice contributing to, and at the same time influenced by, power and ideological struggle' (Zhu, 2016, p. 11). Throughout this Chapter Two I have highlighted how questions of power and control, and their relation to language and institutional culture, are of fundamental importance in legal intercultural communication. In this context, power can be conceptualized at two different levels of the social order: 'power includes both an individual's power over other individuals gained in day-to-day interaction, and social power, manifested typically in social hierarchy and organizational structures' (Gibbons, 2003, p. 74).

At the micro-level of the '**interaction order**' (Goffman, 1983) of face-to-face interaction ('how people behave in one another's co-presence and co-construct their social worlds in everyday encounters', Gordon, 2011, p. 72), Brown and Gilman (1960) define interactional power as follows:

One person may be said to have power over another in the degree that he is able to control the behavior of the other. Power is a relationship between at least two persons, and it is nonreciprocal in the sense that both cannot have power in the same area of behavior. (Brown & Gilman, 1960, p. 255)

Power at this level is conceived as a relationship, and is observable in communicative practices, as the various studies of interactional power in legal advice meetings discussed in section 2.3.1 illustrate. The findings by Sarat and Felstiner (1995), that in the divorce law meetings they studied, power shifted between lawyer and client and was interactionally-based, resonate strongly with this view. Power was evidenced by one person's previously-held meanings fully or to a large extent prevailing as the mutually negotiated outcome of interaction.

Social power at the macro-level of the **institutional order** (Berger & Luckmann, 1966) is part of social relations and also part of cultures, as it is present in the interactions and exchanges by which group social norms (or ranges of norms) are created, maintained and changed (Martin & Nakayama, 2013). In conceptualising social power, it is helpful (following Blommaert, 2005; Thornborrow, 2002) to draw on Bourdieu's theory of practice (Bourdieu, 1972), and later writings about how language fits into this (Bourdieu, 1991). Positioned on the dark side of social constructionism (Irwin, 2011), Bourdieu extended Marxist thought about power in society beyond economic relations of capital, proposing that power also resides in the possession of other forms of socially valued goods: social capital (personal relationships and networks) and cultural capital (personal knowledge, in embodied, objectivized and institutionalized forms). Linguistic capital (an individual's linguistic resources) is a part of cultural capital. According to Bourdieu, in different social fields, different kinds of capital have differing social value, and individuals trade different forms of economic, social, and cultural capital in order to improve their positions in the social hierarchy of their own field. Individuals therefore have some limited agency to improve their own social standing, but this is constrained by their original position in the social hierarchy, limiting the overall amount of capital they can access (Block, 2013; Bourdieu, 1972). Symbolic capital (honour and recognition within a field – carrying with it the power to influence others) accrues to those who, through possessing large amounts of whichever other forms of capital are valued in that field, occupy an elevated position in the hierarchy.



The concept of symbolic capital can be used to understand the relationship between language and power in institutional settings (Thornborrow, 2002). Societal power is wielded through institutions such as government, legal systems, and education systems (Foucault, 1971) which are controlled by the dominant groups in society possessing symbolic power and whose norms and conventions are set by them (Roberts, 1996b). The powerful in each social field are able to define what forms of capital (including linguistic capital) are valued within the field. Thus, semiotic practices, indexing different forms of capital, are used as a means of evaluation of social worth or even of exclusion (Bourdieu, 1991). Language use is situated within the context of a macro-level 'linguistic market place' (Bourdieu, 1991, p. 66), where certain forms of language have more value than others. This is particularly evident with institutional cultures, within which identifying norms and practices are often used as mechanisms of control and regulation (Duchêne, Moyer, & Roberts, 2013a; Gibbons, 2003; Roberts, 2009; Sarangi & Roberts, 1999b). Within asylum processes, for example, such dynamics are manifest in the way that credibility is assessed based on the narrative properties of consistency and coherence, assumed by the dominant institution to be indicators of 'truth' in the applicant's narrative (see Chapter One, section 1.1, and Appendix A).

The macro- and micro- dimensions of power are interconnected, since 'one of the social resources on which power and dominance are based is the privileged access to discourse and communication' (Gibbons, 2003, p. 199 citing van Dijk, 1993). The two dimensions also reflect the (problematic) conceptual distinction between talk and context discussed above – interactional power is exercised in talk, and social power is a feature of the context of talk. Linking this to methodologies for analysing discourse, and problematizing the micro-macro split, Thornborrow (2002) argues that the relationship between power and talk in institutional interaction cannot be accounted for simply through considering 'pre-existing social relations of power which determine institutional discursive structures' (p. 133) (the approach of critical discourse analysis), but nor can it be accounted for by any method that ignores these relations (such as the micro-analytic approach of conversation analysis). Thornborrow argues persuasively that an analytic approach is needed that takes both interaction and context into account, and she herself mixes techniques from conversation analysis, critical discourse analysis, and Gumperz's (1999) interactional sociolinguistics in her analysis of power in institutional talk.

Thornborrow (2002) finds that although asymmetry is ingrained in institutionally-defined interactional roles, carrying associated speaking rights, power relations are not necessarily fixed, and can shift and be redefined on a very local level. Power is 'contextually sensitive ... a set of resources and actions which are available to speakers' (Thornborrow, 2002, p. 8). Success in using

these will depend on who the speakers are and what the speech situation is. She observes that power can be exercised both **structurally**, through allocation of speaking rights (the distribution of turns at talk, and the type of space that speakers typically have in interactions), and **interactionally**, through what speakers can effectively accomplish in that space through the exercise of agency and control at the micro-level. Speakers can use linguistic forms as resources in exercising or resisting interactional power, but their function and effect will depend on the interactional context, partly defined by the (shifting) local talk and interactional relations, and partly by (fixed) asymmetrical institutional relationships (p.8). For this study, this implies that how the parties exercise and resist power within advice meetings will be context-dependent.

Thornborrow's (2002) study examined power in interaction in monolingual (albeit lay-institutional) settings. For this study, and in relation to multilingual and intercultural communication, Blommaert's theorisation of what happens when linguistic resources travel and surface as practices in a new social location, within which they are often devalued or delegitimised, enriches the conceptual framework (Blommaert, 2003, 2009, 2010; Blommaert et al., 2005; Maryns & Blommaert, 2002). Blommaert examines how the symbolic capital of linguistic resources is transformed when resources travel into different spaces, particularly those of a legal and institutional character. For example, in their discussion of spaces of multilingualism, Blommaert, Collins and Slembrouck (2005) argue that individuals who have access to less prestigious language varieties or use fragmented or truncated multilingual resources (see Chapter One, section 1.5) in their home spaces, such as migrants from many African societies, are routinely limited and incapacitated by Western institutional spaces of communication like the Belgian asylum interview, such that an individual will never be able to fully communicate. This is because:

the particular environment organizes a particular regime of language, a regime which incapacitates individuals...a lack of competence to communicate adequately is...a problem for the speaker, lodged not in individual forms of deficit or inability but in the connection between individual communicative potential and requirements produced by the environment. (Blommaert et al., 2005, p. 198)

The social value, or linguistic capital, attached to the form of a linguistic utterance varies according to the semiotic scales (Blommaert, 2010) – the linguistic hierarchy – operating in that particular time and space. The space of the Belgian asylum interview, with its associated monolingual linguistic ideology, either devalues or does not recognize the linguistic resources of migrants where these do not conform to its expectations of full fluency in a standard language variety such as French or English. Individuals are also negatively evaluated when they fail to show the ability

to use institutionally-oriented discursive strategies (such as chronological narration). Blommaert et al. (2005) point out that this itself is an exercise of power at the macro-level, impacting in a very real way at the micro-level. Individuals are silenced by the space in such circumstances, and (in an extension of Bourdieu's concept of symbolic capital to the global sphere) this is an effect of power in that it is those who control the space who define what linguistic resources are or are not acceptable. Applying this to migrant legal advice, Codó and Garrido (2010; see section 2.3.4) argued that the Spanish-dominant language ideology of the Catalan NGO disadvantaged some of its migrant clientele. This study explores whether any similar dynamic exists in a UK setting.

## **Summary**

In this section 2.5, I have summarised the key concepts of (a) means of communication, (b) contexts of communication, and (c) power in communication emerging from the literature review undertaken in the preceding sections of this chapter, and explained how these key concepts frame the study's main and subsidiary research questions. I have then discussed how I conceptualise each of these key concepts, drawing from the work of various scholars. Thus, this study's approach to the research questions is underpinned by (a) Risager's (2006) constructs of linguistic, languacultural and discursive resources and practices and their links to culture; (b) an ecological notion of context located in diverse spaces, times and places relative to an interaction and which may be brought along to, or brought about in, that interaction (Auer, 1992; Blommaert, 2005; Kramsch & Whiteside, 2008; Whiteside, 2013); and (c) a conception of power as manifesting in communication at two levels, the micro-level of face-to-face interaction (Brown & Gilman, 1960) and also the macro-level of institutional structures and spaces (Blommaert et al., 2005; Thornborrow, 2002).

## **Chapter Summary**

In Chapter Two, I have laid the foundations for this study by reviewing and drawing out key themes from existing research about legal advice communication, communication in asylum processes, and the role of interpreters in each of these communicative contexts. In this review, I have highlighted the lack of studies focusing on multilingual and intercultural legal advice communication and on communication in asylum and immigration legal advice-giving specifically. In the chapter I have also explored the prevailing ideology of legal advice communication as a participatory activity, and (in the view of some scholars) as an inherently intercultural form of communication. Finally, I have explained the theoretical grounding with which I underpin the key concepts framing the main and subsidiary research questions of this study.

In the following Chapter Three, I set out the methodological foundations of this study and explain how these support the investigation of the study's research questions.

## **Chapter Three: Methodological and Analytical Framework**

My discussion of relevant literature in Chapter Two showed that legal advice takes place within the institutional context of the law - a highly impersonal, bureaucratic, rule-oriented environment - but that legal advice communication involves the relationally-oriented goal of mediating the layperson's contact with legal institutions. This literature shows that in asylum interviews and court hearings, institutional settings within the asylum legal process characterised by gatekeeping functions, dimensions of multilingualism and interculturality within communicative interactions exacerbate already present lay-legal power imbalances. In ostensibly more co-operative legal advice meetings, the literature indicates that the dynamics of power and control are context-dependent to a great degree, and become more complex when an interpreter is a party to the interaction. Little empirical work has however been done to investigate such dynamics in multilingual and intercultural legal advice settings beyond the lay/legal divide, and in asylum and refugee law in particular. Addressing this gap in knowledge identified through the review of the literature, I seek to explore how lawyers and clients communicate in the context of asylum and refugee legal advice-giving, a setting which is characterised by multilingualism, interculturality, and power differences arising from the lawyer's greater knowledge and expertise, and other possible factors such as client vulnerabilities (Migration Work CIC et al., 2016).

This chapter sets out the methodological and analytical framework for the study. In section 3.1 I outline the ontology and epistemology of the study, and in section 3.2 I introduce and justify the choice of linguistic ethnography, the methodological approach adopted. In sections 3.3 and 3.4 I present the central discourse analytic concepts of communicative activity type, and intertextuality, that are drawn upon in the interactional data analysis, and explain my decision to use them.

### **3.1 Ontology and epistemology**

This study examines how a social process (communication) takes place within a particular institutional social setting characterised by multilingualism, interculturality, and imbalances of power. The view of communication as a social process is grounded in a certain ontology and epistemology, which shapes this research. I employ the interpretive paradigm (Denzin & Lincoln, 2013) of constructionism (Holstein & Gubrium, 2013), combined with a critical view of the role of language and culture within society (Block, 2013; Blommaert, 2005; Bourdieu, 1991; Foucault, 1980). In the constructionist paradigm, humans are understood to create meaning in dialogical relation with objects and with each other (Crotty, 1998). This implies a relativist ontology,

recognizing that there are multiple constructed realities arising from different processes of meaning creation (Denzin & Lincoln, 2013). Research within this paradigm is thus interpretive, recognising that there is a 'constellation of procedures, conditions, and resources through which reality is apprehended, understood, organized and conveyed in everyday life' (Holstein & Gubrium, 2013, p. 255). Research does not seek to identify one true or objective version of reality, but rather how research participants see and do reality.

### **Social constructionism**

In common with much intercultural communication-focused and applied linguistic work (Irwin, 2011; Martin, Nakayama, & Carbaugh, 2012), my approach is underpinned by **social constructionism** (Berger & Luckmann, 1966), a view of social reality as constructed through interpersonal interaction and the exchange, normalisation, reification and institutionalisation of ideas, within which language plays a crucial role. Social constructionism contrasts with constructivism, 'an individualistic understanding of the constructionist paradigm' (Crotty, 1998, p. 68) which foregrounds the meaning-making activity of the individual mind. Social constructionism focuses on how social structures, governing the operation of society, are created as realities through interaction and processes of normalization, objectification and reification of initially subjective ideas, beliefs and values (Irwin, 2011).

Crotty (1998) argues that social constructionism implies criticality, since its aim is to foreground 'the hold our culture has on us' (p. 58), highlighting that whilst culture is an important and positive part of our humanity, it is also limiting. Not all studies grounded in social constructionism emphasise this critical lens, but a critical paradigm within intercultural communication studies foregrounds this in its investigations. Martin et al. summarise this approach as follows:

The critical paradigm shares many of the same metatheoretical assumptions with the interpretive – an ontological assumption that reality is socially constructed and an emphasis on the voluntaristic characteristic of human behavior (Martin and Nakayama 1999; Mumby 1997). However, critical scholars emphasize that human behavior is always constrained by societal ideological superstructures and material conditions that privilege some and disadvantage others. Culture is not a benignly socially constructed variable, but a site of struggle where various communication meanings are contested within social hierarchies' (Martin et al., 2012, p. 28)

This version of social constructionism is termed the 'macro, weak or dark form' (Irwin, 2011, p. 100), in that it acknowledges less agency for individuals within the processes of construction than

the contrasting micro, strong or light form. Irwin comments that this can best be thought of as ‘a continuum as regards the extent to which what is constructed has been regularized and in turn institutionalized’ (p. 100), rather than as a rigid dichotomy. This distinction reflects the more general debate in social theory on whether social structures or individual agency are more determinative in social life (Block, 2013; Giddens, 1984). In the macro view of social constructionism, research can be both interpretive (seeking to discover participants’ actions and viewpoints) and critical (recognising that these are constrained to some extent by societal structures).

For this study, therefore, a methodological approach allowing me to examine how communicative resources, contexts, and power operate at, and between, different levels of the social order, is needed. Such an approach will offer a more complete picture of multilingual and intercultural communication in the institutional and professional space of the legal advice meeting, one which acknowledges the interconnected nature of how communicative resources are used and how cultural identifications are signalled and drawn upon, all within wider dynamics of social power. A linguistic ethnographic approach offers these possibilities.

### **3.2 Linguistic ethnography as a methodological paradigm**

In this section 3.2 I define linguistic ethnography, and explain why it is an appropriate methodological approach to the research and how it fits in with my research objective and theoretical orientation to the research. I also outline the methods of analysis that are used in this study, and situate them within the LE paradigm.

#### **3.2.1 Linguistic ethnography**

Linguistic ethnography (LE) research is a label applied to qualitative case study research (Lincoln & Guba, 1985) that studies language use in a specific social context using both ethnographic methods and linguistic analysis (Copland & Creese, 2015; Rampton, 2007; Rampton et al., 2004; Rock, 2006; Snell, Shaw, & Copland, 2015). LE work draws from the research traditions and methods of the ethnography of communication (Hymes, 1974), theories of social interaction (Goffman, 1959, 1974, 1981b), interactional sociolinguistics (Gumperz, 1999), linguistic anthropology (Duranti, 1997), conversation analysis (Sacks et al., 1974; ten Have, 2007) and, in some studies, social semiotics (Streeck et al., 2011). The focus is on how language (or other semiotic tools) is (or are) used to create social meaning in a specific social setting.

LE research involves a case study design in which both ethnographic data, and interactional data (audio or video recordings of naturally occurring communicative interactions), are collected from

a particular research site. Each form of data is used to inform the analysis of the other, building up a multi-perspective view of language-in-use in that particular social setting. The methods of linguistic and/or discourse analysis to be used in LE are not prescribed; methods and approaches to suit the research question(s) under investigation, and the theoretical framework adopted, must be selected and applied. The extent of the researcher's ethnographic involvement in the research site is also left open, since (unlike traditional anthropology which seeks a complete understanding of the culture of a social site, Creswell, 2009), linguistic ethnographic work is topic-oriented, focused on the study of particular aspects of such sites (Shaw, Copland, & Snell, 2015).

Linguistic ethnography is therefore a broad umbrella term that can be applied to a diverse range of research, although all LE research will reflect the position statement 'that language and social life are mutually shaping, and that close analysis of situated language use can provide both fundamental and distinctive insights into the mechanisms and dynamics of social and cultural production in everyday activity' (British Association for Applied Linguistics Linguistic Ethnography Forum, 2017). Two central assumptions underlie the dual methodological approach in LE. Firstly, the contexts which surround and impact on communication - the specific social relations, interactional histories and institutional regimes within which meaning takes shape - should be ethnographically investigated for proper understanding rather than simply assumed. Secondly, detailed analysis of the internal organisation of language and other semiotic practices is essential to understanding its significance, because meaning is 'extensively signalled in the linguistic and textual fine-grain' (Rampton, 2007, p. 585) of communicative interaction.

### **3.2.2 Suitability for this study**

The theoretical orientation of an LE approach fits well with the theoretical stance of this research, as outlined above and in Chapter One, which sees communication as the dialogical negotiation of meaning drawing on, and impacted by, the interactional context. An LE approach allows the investigation of both macro- and micro-levels of social interaction through ethnographic and linguistic analysis work; this is crucial for the investigation of this study's research questions. An in-depth case study investigation into a site of refugee and asylum legal advice-giving can be undertaken, including ethnographic enquiry into the institutional context, and linguistic enquiry into the nature of communicative practices employed in legal advice-giving across languages and cultures.

Methods of analysis can be chosen which focus on how such contexts and others are (made) relevant in interactions, and how micro- and macro- level mechanisms of power operate in interactions. An LE approach also allows for analysis of the way that different linguistic and



cultural repertoires may be drawn upon for communication (see further Chapter Four). An LE approach is therefore well suited to the research objective and research questions of this study.

### **3.2.3 Approaches to discourse analysis in this study**

Most LE studies use a combination of linguistic analysis methodologies to analyse interactional data, but which approaches are chosen depends on the focus of interest and goals of the study. This study seeks to understand how communication operates in multilingual and intercultural legal advice meetings in the asylum and refugee law setting through examining the resources used in communication, the contexts impacting on communication, and the dynamics of control and agency within interactions. Because this requires connections to be made between different levels of the social order, the broad analytical perspective I adopt is situated at the meso-level, seeking to identify what patterns linking the micro-level and the macro-level of interaction exist across different instances of legal advice.

In order to achieve this, and in common with many linguistic ethnographers (Rampton, 2008), I foundationally draw on the analytical tools of interactional sociolinguistics (Gumperz, 1999). Interactional sociolinguistics underpins many LE studies because of its ability to blend micro-analysis of turn by turn interaction using techniques drawn from conversation analysis, with wider frameworks of role, frame and contextualization drawn from sociology and other ethnographic work.

Conversation analysis (**CA**) (Sacks et al., 1974; Schegloff, Jefferson, & Sacks, 1977; see ten Have, 2007 for a summary), focuses on the micro-context of line by line conversation. CA's interest is in the '**interaction order**' (Goffman, 1983) of face-to-face interaction, or 'how people behave in one another's co-presence and co-construct their social worlds in everyday encounters' (Gordon, 2011, p. 72), and CA researchers retain the focus on the micro-level by taking into account in their analysis of talk only those aspects of context made relevant by the participants in talk. Through paying close attention to the organization of turn-taking, conversational repair, and interactional sequencing within interactional data, conversation analysts draw conclusions about the normal sequencing of talk, and what deviations from such normal sequencing may reveal about the participants and the social situation. Some CA studies in institutional settings deviate from the more traditional approach, and use ethnographically-gathered data to also inform the linguistic analysis (see e.g., Cicourel, 1987). CA techniques can be useful for analysing the dynamics of control in interaction, for example, although (as discussed in Chapter Two, section 2.5.3) Thornborrow (2002) argues that it must be supplemented with other methods to take account of

the effects of macro-structural power, deriving from the institutional order that structures society (Berger & Luckmann, 1966), on interactions.

Interactional sociolinguistics (Gumperz, 1982a, 1982b, 1999), provides such additional tools. It extends conversation analysis beyond the immediate micro-context, analysing interactions with close attention to both the turn-by-turn dynamics of talk and also broader social contexts which are brought into the interaction with contextualization cues (see Chapter Two, section 2.5.2). Ethnographic methods are used to collect contextual information to support the analysis of interaction. Interactional sociolinguistics draws on Goffman's frameworks of social interaction within the interaction order (Goffman, 1959, 1974, 1981b), and ethnomethodological approaches to interpretive processes and communication (Garfinkel, 1967; Hymes, 1974). It seeks to understand what interpretive resources individuals draw on in communication, and how 'conversational inference' (Gumperz, 1999, p. 458, see Chapter Two section 2.5.2) takes place. Ethnographically gathered data are central to the analytic approach, and ethnography is seen as 'a technique and a series of propositions by means of which something can be said about 'context'' (Blommaert & Jie, 2010, p. 4), focused specifically on the meanings that 'context' has for the communication being observed.

The tools of interactional sociolinguistics underpin, and feed into, the two overarching discourse analysis methods that I use in my analysis of interactional data. These enable me to approach the micro-macro interplay in two different ways. First, I use the analytic concept of **(communicative) activity type** (Levinson, 1979; Linell, 2010; Sarangi, 2000) to examine the broad discursive structure of intercultural and multilingual legal advice meetings and the implications of that discursive structure for micro-interactional control, the types of communicative resources used and how they are used. Second, I use a form of **transcontextual analysis** to examine how the macro-institutional order, in the shape of the legal process and the authoritative and everyday texts that it draws upon, enters directly into the micro-interaction of legal advice through processes of intertextuality (Blommaert, 2005; Fairclough, 1992; Rock, 2013). Both of these can be considered meso-level analytic concepts which make connections between the micro-level and macro-level.

In the following sections 3.3 and 3.4, I introduce and discuss these two overarching discourse analytic concepts of activity type and intertextuality, explaining further their relevance to this study.

### 3.3 Activity type analysis

The first method of discourse analysis I use to look at my interactional data is an activity type analysis. Activity type is a meso-level discourse structuring concept, which by defining expectations for what will happen in an interaction, guides interlocutors in their communication. Awareness of frequently encountered activity types is part of an individual's discursive resources (Risager, 2006). In institutional settings, activity type structures can be inflexible. Some scholarship has shown how activity type structures in institutional gatekeeping settings disadvantage those who are culturally unfamiliar with them – who display a lack of institutional literacy (Gumperz, 1992; Roberts, 2009; Slembrouck, 2011).

As discussed in Chapter Two, legal advice interactions usually have a clear activity type structure, at least in terms of how student lawyers are taught to run advice meetings with clients. One study (Körner, 1992 cited in Gibbons, 2003) has shown that this structure is implemented in practice, although more flexibly than in the pedagogical models. However, how such structuring works in intercultural and multilingual legal advice interactions, when individuals possessing different ranges of linguistic, languacultural and discursive resources come together for a shared purpose, is unknown. Relevant questions arising are whether the activity type structure supports, or impedes the negotiation of shared meaning, and whether activity type norms are enforced, voluntarily followed, or relaxed in multilingual or intercultural communication.

#### 3.3.1 Defining activity type

Activity type is a theoretical construct which contextualises language-in-use, and situates language within broader macro-structures. The construct links linguistic and other communicative practices to their contexts of use, through 'routinization in communication' (Luckmann, 2009, p. 267). It is thus a 'bridging meso-concept' (Linell, 2010, p. 36) connecting the interaction order to the institutional order. Activity type is underpinned by the observation that in certain contexts of use, similar communicative practices are drawn upon across different instances of communication, and that specific sets or combinations of communicative practices are therefore shaped by a particular communicative context and are, to an extent, predictable through it. In dialogical relation, the use of such sets of communicative practices also contribute to shaping and signalling the context. An activity type is a classificatory label attached to a particular kind of communication that is *expected* within a particular communicative context. It is an explanatory device for the relation between context and the form(s) of communication typically used within that context.

The construct of activity type has been variously theorised and named within a range of intellectual traditions and academic disciplines. Definitions used include genre (Hymes, 1974), speech genre (Bakhtin, 1986b); language game (Wittgenstein, 1958); frame (Goffman, 1974); communicative genre (Luckmann, 2009); speech event (Hymes, 1974); discourse event (Blum-Kulka, 2005); activity type (Levinson, 1979); and communicative activity type (Linell, 2010). According to Bauman (2006), the concept of genre was first advanced in literary criticism by the Grimms, who in the early nineteenth century classified literary narratives into the genres of legend, myth, and fairy tale on the basis of their functional and formal properties. Notions of genre as a means of classifying literatures were expanded on by early linguistic anthropologists such as Boas and Malinowski, who classified different kinds of spoken narratives encountered in societies (Bauman, 2006). This approach was substantively developed and theorised by Hymes, who included genre as a component of his 'ethnography of communication' framework for investigating language use in specific social and cultural settings (Hymes, 1974).

The focus on genres in speech within linguistic anthropology mirrored the thought of Bakhtin, who argued that genre exists not only in literature but also in speech:

Language is realized in the form of individual concrete utterances (oral and written) by participants in the various areas of human activity. These utterances reflect the specific conditions and goals of each such area not only through their content (thematic) and linguistic style, that is, the selection of the lexical, phraseological and grammatical resources of the language, but above all through their compositional structure. All three of these aspects – thematic content, style, and compositional structure – are inseparably linked to the whole of the utterance and are equally determined by the specific nature of the particular sphere of communication. Each separate utterance is individual, of course, but each sphere in which language is used develops its own relatively stable types of these utterances. These we may call speech genres. (Bakhtin, 1986b, p. 60)

Bakhtin conceptualises genre as ubiquitous, a characteristic of all language use (Bakhtin, 1981, 1986a). Through speech genres, an individual's choice of how to formulate his utterance, and how to interpret the utterances of others, is regulated by typicality: 'in the genre the word acquires a particular typical expression. Genres correspond to typical situations of speech communication, typical themes, and consequently, also to particular contacts between the *meanings* of words and actual concrete reality under certain typical circumstances' (Bakhtin, 1986b, p. 87). Bakhtin argued that all forms of speech and language use are organised into

different kinds, manifest in different communicative situations, each of which will have its appropriate kind of language and its own terms of art, implied meanings etc.

This conception of genre or activity type as organising interaction is shared by Goffman, although Goffman adopts a broader perspective, considering social interaction more generally:

I assume that when individuals attend to any current situation, they face the question: “What is it that’s going on here?” Whether asked explicitly, as in times of confusion and doubt, or tacitly, during occasions of usual certitude, the question is put and the answer to it is presumed by the way that individuals then proceed to get on with the affairs at hand. (Goffman, 1974, p. 8)

Goffman is referring to his concept of ‘frames’, which as discussed in Chapter Two (section 2.5.2), are important contextualizing resources in intercultural communication. The notion of ‘frame’ emphasises the formative or constraining effect that genre has on social interaction, but also its supportive function: having recognised the interactional frame that they are engaged in, participants in a communicative encounter will usually modify their behaviour and communication (their “footing”, Goffman, 1981a, p. 128) to fit within generic expectations for that frame, ensuring that the interaction proceeds more smoothly. Goffman’s focus is on the level of social interaction and social behaviour (implicitly taking in language and other forms of communication), and Bakhtin focuses more on how language is employed within social interaction; their ideas, however, mirror each other.

Others hold that genre is not ubiquitously applicable, but relates only to interaction that is purposeful, or that has a specific function. Levinson, an interactional sociolinguist, adopts this stance in his concept of ‘activity type’ (Levinson, 1979), choosing a different terminology to acknowledge that communication takes place through a variety of modes, speech being only one of the possibilities. The concept of activity type declares a focus on purpose: activity type is ‘a fuzzy category whose focal members are **goal-defined**, socially constituted, bounded, **events** with *constraints* on participants, setting and so on, but above all on the kinds of allowable contributions’ (Levinson, 1979, p. 368, italics in original; my emphasis). Within activity types, constraints exist on (a) goals/purposes, (b) roles activated in the activity, (c) sequential structure or stages, and (d) participants and setting (Levinson, 1979). The concept of activity type expresses the idea that the purpose(s) or function(s) of an interaction constrains the type of communicative resources that can be used, and how they can be used: structural elements of the interaction such as organising phases and sequencing of these, allocation of speaking turns, how contributions are

judged to be functionally adequate, and how topical cohesion is achieved are 'rationally and functionally adapted to the point or goal of the activity in question' (Levinson, 1979, p. 369).

Whilst there is normally an overarching purpose for the interaction that is shared by all participants, it does not necessarily follow that all parties have the same goals, or that the interaction is inherently co-operative. Levinson (1979) discusses the example of a cross-examination in a British criminal court, within which the defendant and the prosecuting barrister are both engaged in the same interaction, with the shared overarching purpose of giving and obtaining evidence for the case at hand, but in relation to which the prosecuting barrister and the defendant have very different goals. This interaction is normally characterised by questions and answers in a sometimes confrontational style, and although the defendant probably does not welcome the confrontation, he or she will be expecting it; it forms part of the communicative style of the activity type. The observation is relevant to this study of legal advice-giving, in that the interaction is purpose-driven, and on one level both lawyer and client have a shared goal (to give and receive legal advice), although at a deeper level it is possible that lawyer and client may have very different goals for the interaction.

### **3.3.2 A culturally specific construct?**

Practice-oriented perspectives on genre or activity type view the construct as 'a guiding framework for communicative practice' (Bauman, 2006, p. 753), and 'a mechanism for the regimentation of participation in communicative interaction' (p. 753) within particular communities. They operate in this way due to the recurrent nature of the communicative situation, which gives rise to shared conventions amongst a community of practice (Wenger, 1998) whose members are regularly involved in that type of communicative situation, as to the most appropriate ways of communicating in that situation. As Gumperz notes:

Knowledge of the conversational activity entails expectations about possible goals or outcomes for the interaction, about what information is salient and how it is likely to be signalled, about relevant aspects of interpersonal relations, and about what will count as normal behaviour. (Gumperz, 1982b, p. 101)

For this reason, activity type is often viewed as a culturally specific construct, which, it is theorised, gives rise to the potential for communicative misunderstanding when someone unfamiliar with the culture (and the norms of interaction within the activity) communicates in a context typified by generic communication. The 'activity-specific rules of inference' (Levinson, 1979, p. 393) are unlikely to be known to cultural outsiders.

Illustrating this, in an analysis of job interviews with local English speaking, and ethnic minority English L2 speaking, candidates in a company in the British midlands, Gumperz (1992) examined the use of and responses to contextualization cues (see Chapter Two, section 2.5.2) by individuals from the two groups. The inability of the ethnic minority candidates to recognise and respond correctly to contextualization cues such as specific uses of register (matching informality with informality in greetings) and prosody (recognizing stress on key words as an implied request for the candidate to offer further information on that subject) resulted in their performance at interview being judged more negatively by the interview panel. Gumperz concluded that the ethnic minority candidates failed because they were unfamiliar with the expected communicative norms (activity type) of the interview. Gumperz's study supports the argument that only those familiar with the culture that the norms of an activity type are shared within are able to successfully function within, and manipulate the resources of, the activity type. In fact, repeated correct use of the particular generic resources creates and/or reinforces the culture and the activity type. If correct, this finding is relevant to this study, which may involve clients with little knowledge of the activity type norms in legal advice-giving in the English law context.

Such a conception of the relation between activity type and culture, however, arguably views both constructs as relatively fixed, stable and unchanging: it assumes that there are fixed ideas circulating about "the culture of the British job interview" and "the correct activity type" that should be used for communication within it. Gumperz's study, which has been built on by subsequent work (Baptiste & Seig, 2007; Jupp, Roberts, & Cook-Gumperz, 1982; Roberts & Sarangi, 2003), can alternatively be interpreted as illustrating inflexibility or lack of fluidity in the particular institutional activity type (and culture) of the British job interview. In this perspective, there is a strong connection between the findings of Gumperz's study and the institutional, gatekeeping function of the interactions: hierarchies of power, and the linked prestige and consequent inflexibility of the style of communication that is the expected 'norm' in the job interview, play a role in determining the outcome (Roberts, 2009). Purpose-driven communication and communicative inflexibility associated with institutional processes is characteristic of many institutional settings, and makes the construct of activity type relatively easily observable in institutional communication (Blommaert, 2009; Maryns & Blommaert, 2002; Sarangi & Slembrouck, 1996). However, and for that reason, focusing exclusively on institutional contexts can also lead to an oversimplified conception of what activity type is and how it operates.

### **3.3.3 A fuzzy and fluid construct**

Contesting this view of fixedness, in a seminal paper applying Bakhtin's ideas on intertextuality ('the relational process by which texts relate to each other' 'Rock, 2013, p. 80, drawing on

Bauman, 2004 and Gee, 2005) to studies of genre in linguistic anthropology, Briggs and Bauman (1992) point out that genre is 'quintessentially intertextual' (Briggs & Bauman, 1992, p. 147) and not as stable as some might like to think. They argue that genres-in-practice are manifestations of intertextuality, since the generic 'ideal' of how to communicate in a particular context is drawn upon and repeatedly performed in individual communicative acts. As such, particular performances are never exactly the same but display 'intertextual gaps' (Briggs & Bauman, 1992, p. 149) between the actual performance and the generic ideal that it is modelled on. Formulated another way, genres 'leak' (Lefstein & Snell, 2011, p. 41), in that the reality never matches the ideal, but always approximates it. These intertextual gaps are deliberately manipulated to express either innovation or resistance to authority (if the 'gap' is maximised) or adherence to tradition and/or respect for authority (if the 'gap' is minimised). Thus, Briggs and Bauman argue that 'generic intertextuality cannot be adequately understood in terms of formal and functional patterning alone – questions of ideology, political economy, and power must be addressed as well if we are to grasp the nature of intertextual relations' (Briggs & Bauman, 1992, p. 159). In this perspective, genre is not inherently fixed or bounded, but can be open, flexible, and ambiguous. Where fixedness is encountered, such as with the inflexibility of generic forms of communication in institutional settings like those studied by Gumperz, this may well be associated with the hierarchies of power operational within such settings.

In line with Briggs and Bauman's (1992) thought, studies of activity type or genre have increasingly explored the dynamic and contingent nature of social interaction, with views of activity type becoming 'flexible, contingent and emergent' (Bauman, 2006, p. 757). The fluidity or 'fuzziness' (Lefstein & Snell, 2011) of activity type or genre has been observed in studies within a range of interactional situations, leading to more complex conceptions of genre and its relation to context. Lefstein and Snell (2011) examine the leaking of the popular culture genre of the TV talent show into a primary school literacy lesson. The authors argue that a video recording of a lesson in which the teacher organised peer feedback on one pupil's written story in the style of an episode of the TV show 'X-Factor', reflected Bakhtin's view of genres as potentially complex, 'absorbing and digesting' (Briggs & Bauman, 1992, p. 145) other generic types in a form of hybridity. In this, speaker agency is central in bringing in other generic forms (and hence other contexts), underlining that genres do not exist in and of themselves: they are brought into being interactionally and performatively by the parties in an example of context being brought into interaction and actively negotiated (see section 3.2). Blum-Kulka's (2005) analysis of family dinner table conversation and children's play in a school setting also illustrates the fluidity of genres/activity types, with rapid shifting across and between genres and contexts taking place through dialogue. Blum-Kulka argues that speech genres are 'cultural constructs', and 'their



degree of structural and functional stabilization may vary with discourse worlds' (Blum-Kulka, 2005, p. 283), with institutional settings exhibiting the most stable and distinguishable genres.

Sarangi (2000) argues for balance between fixedness and fluidity in institutional activity types in a discussion of the analysis of genetic counselling talk. Sarangi observes that genetic counselling interactions involve three different phases or 'critical moments' (p. 23), of (a) information giving (within which information is itself 'structurally packaged' into four different 'modes of explanation' (p. 18)), (b) advice seeking, and (c) decision making, with each phase being characterised by the use of a distinct 'discourse type' ('specific manifestations of language form in their interactional contexts', Sarangi, 2000, p. 1 following Fairclough, 1992). Sarangi acknowledges that discourse types are embedded within activity types, and can occupy 'focal positions' (p. 14) within them, but also argues that 'the same discourse type can occur in different activity types and may receive differential treatment' (p. 14). Sarangi argues that activity types demonstrate hybridity even in professional and institutional settings, and this in part derives from different 'discourse types' being drawn on within and across activities. The combination of Levinson's activity type framework, and analysis of the use of different discourse types within activity types, provides (in Sarangi's view) a more sophisticated conceptualization of the generic variation observable in institutional discourse.

Linell's (2010) notion of 'communicative activity type' (p. 33) synthesises many of the approaches discussed above, and is the conceptualization used in this study. Like Levinson, Linell avoids the term 'genre' because of its associations with written and literary texts, using the term communicative activity type (CAT), to express the embeddedness of communication in social activity and the range of semiotic resources that can be drawn on, including language. For Linell, a CAT is characterised by (a) a relation to a social *situation* and *encounter* which is recognized and often named by participants (e.g. the "performance review"); (b) being framed by specific expectations and purposes; (c) a predictable structuring and ordering of the dialogue, sometimes divided into different sequentially ordered subactivities ('phases'); and (d) often being linked to, and administered by, institutions or professional or societal organisations (p. 42-3). These categories take the concept close to Levinson's construct of activity type. However, Linell points out that CATs manifest hybridity in at least three different ways: firstly, they exhibit *sequential hybridity* in which different CATs follow each other sequentially; secondly, CATs can be embedded within each other in a layering of *frames within frames* (drawing on Goffman, 1974), which Linell describes using the sub-category of 'communicative projects' (Linell, 2010, p. 36); and thirdly, there can be a *merging of CATs* with participants orienting to several frames simultaneously (Linell, 2010 drawing on Sarangi, 2000). Linell also points out that most CATs exhibit some form

of asymmetry, with one party doing more 'communicative labour' (p. 39) than others; however in spite of this, contributions are complementary and there is collective accomplishment. Linell illustrates his approach by analysing a series of 'train traffic control calls' made within the Swedish rail network, noting three aspects: the set sequential structure of the calls, which nevertheless exhibit variation depending on the exact purpose of the call and the degree of urgency of the message; the blending of the usual formal style with occasional informality; and the asymmetrical nature of much of the communication set against the complementarity of the participant roles. I find Linell's CAT model the most useful to apply to legal advice interactions, since it combines a focus on an overarching discursive structure with a recognition that such structures are internally complex, fluid and situationally responsive.

### **3.3.4 Using the construct of communicative activity type in analysis of legal advice in an intercultural and multilingual context**

In the context of this study, activity type analysis is useful because its dimensions (discussed above) are directly concerned with all three of the research questions. Firstly, activity types are theoretically normally associated with a defined set of ways of communicating (with some communicative resources being judged appropriate and acceptable within the activity type, but others rejected). Secondly, activity types are inherently linked with a defined context or set of contexts of communication, which will inevitably have relevance for the interaction. And finally, activity types usually imply that the interactional parties occupy certain more-or-less well defined roles in the interaction, each of which will carry positionings relative to the others involved and entail certain relations of interactional power and control. However, studies also indicate that the activity type structure can be flexible, and that it may not be recognized by cultural outsiders (at least in gatekeeping settings) such as asylum and refugee clients.

A clear discursive structure for conducting a legal advice interaction, discussed in Chapter Two, is taught to student lawyers. As Gibbons notes, however, 'law schools may transmit an idealized lawyer-client consultation structure to their students, but this is not always followed' (Gibbons, 2003, p. 139). Gibbons outlines the form of a 'lawyer-client consultation genre' (p. 139 drawing on Körner, 1992) (see Figure 3.1 below), which closely resembles the pedagogic models discussed in Chapter Two (sections 2.2.1 and 2.2.3, see also Appendix B), but he notes that this is 'soft or fuzzy' and 'much less rigid' (p. 139) than genres featuring in some other legal communicative contexts such as the courtroom.

**(Opening)** – typically a greeting

**Orientation** – description of the core issue, including time frame. May be provided by the lawyer if s/he is familiar with the problem.

**Problem (secondary reality)** – fuller account of the issue. may be omitted if this is not an initial consultation. Involves:

(Identification)

Narrative recount or Explanation

**(Legal explanation)** – either or both of:

(Construction) – explanation to the client of the legal view of his/her situation

(Procedure) – description of the legal process that might be followed

**Recommendation** – lawyer recommends a particular course of action

**(Closure)** – typically involves a pre-closure and farewell

**Figure 3.1 – The lawyer-client consultation genre** (Gibbons, 2003, pp. 139–41, drawing on Körner, 1992)

This study is interested in what happens to activity type in the relational, multilingual and intercultural communicative setting of the asylum and refugee legal advice meeting. An analysis using Linell's (2010) communicative activity type construct can begin to address questions such as whether activity type norms are enforced or relaxed in multilingual and intercultural advice-giving, and what conclusions can be drawn from this about interactional power.

### 3.4 Transcontextual analysis

The second method of discourse analysis I employ with my interactional data is transcontextual analysis, in order to examine the operation of intertextuality in the legal advice setting. In this section 3.4 I define and discuss intertextuality and associated terms, and present and explore one approach to analysing intertextuality in the legal institutional setting that has particular relevance for this study.

#### 3.4.1 Intertextuality

Intertextuality is 'the relational process by which texts relate to each other' (Rock, 2013, p. 80, drawing on Bauman, 2004 and Gee, 2005). It has also been defined as 'connections between texts over time as well as synchronically within repertoires' (Blommaert, 2005, p. 253), and 'the property texts have of being full of snatches of other texts which may be explicitly demarcated or merged in, and which the text may assimilate, contradict, ironically echo, and so forth' (Fairclough, 1992, p. 84). Theoretically, it is closely linked to the thought of Bakhtin (1981, 1986a) on dialogism in literature and social life (Linell, 2009). In dialogical theory, texts are seen as multi-voiced (polyvocal), containing many other voices in addition to that of the author, since

individuals all draw on a multiplicity of past texts and voices in meaning-making (Bakhtin, 1981; Linell, 2010).

Intertextuality is studied through **transcontextual analysis**, in two ways: vertically, by following one text or series of texts across events (Briggs, 1997; Kell, 2011; Mehan, 1996); or horizontally, by focusing analysis on one event in which multiple texts are drawn on (Lefstein & Snell, 2011; Rock, 2013, both discussed above). Lefstein and Snell describe transcontextual analysis in the horizontal perspective as ‘an examination of textual trajectories into and out of the [communicative] event’ (Lefstein & Snell, 2011, p. 46). In contrast, vertical transcontextual analysis is the study of ‘the projection of meanings across contexts’ (Kell, 2011, p. 606). Vertical transcontextual analysis requires a (geographically or temporally) multi-sited ethnographic approach, which some linguistic ethnographers such as Kell (2011) have accomplished, but a horizontal analysis can be undertaken with LE data from just one communicative event.

In applied linguistic research, intertextuality has been used as a lens to examine the ways in which context is brought-about in interaction through the use of texts to evoke other contexts, for example through reported speech (Buttny, 1998) or in the linking of speech events over time through talk (Wortham & Reyes, 2015). Wortham and Reyes’ year-long study vertically analysed a series of linked speech events taking place within the same classroom, looking at the longitudinal development of students’ identity positionings across temporally separate, but interlinked, instances of classroom talk. In contrast, Briggs’ (1997) and Mehan’s (1996) studies focused on documents, examining how chains of temporally separated but interlinked documents compiled in institutional settings, and associated talk, each fed in to and determined an institutional decision-making process: Briggs (1997) examined a prosecution dossier and evidence contributing to it in a case of infanticide, whilst Mehan (1996) considered a portfolio of assessment documents for the diagnosis of a student as ‘learning deficient’, together with consultation and diagnosis decision meetings.

Thus, transcontextual analysis has been employed to consider how texts are used within institutional settings and processes as tools to construct particular outcomes. Intertextuality is a particularly useful tool for examining (a) how voices and texts from the institutional order are used within interactions at the micro-level, and (b) how authoritative texts are used intertextually for purposes of control and the exercise of power. Applied to the highly intertextual context of the law, within which talk and text are intertwined (see Chapter Two, section 2.1.2), it is a powerful analytical tool to explore the research questions in this study.

### **3.4.2 Intertextuality in legal communication**

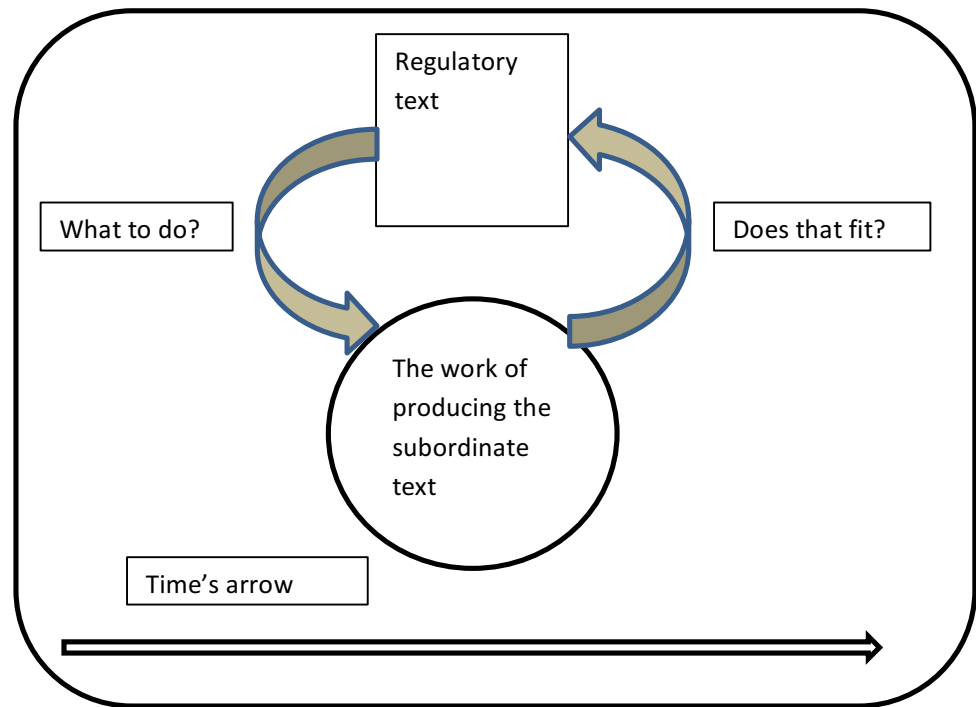
Intertextuality in legal communication has been studied in a range of contexts and is not new to the literature (see Komter, 2006b; Rock, Heffer, & Conley, 2013 for useful summaries), but much of this research focuses on criminal law contexts such as courtroom interaction and police-lay interaction. In courtroom discourse Hale and Gibbons have highlighted intertextuality in oral exchanges, remarking the distinction and interrelationship between the 'primary reality' (Gibbons, 2003, p. 78 citing Hale and Gibbons, 1999) of the courtroom interaction and the 'secondary reality' of the events that are the subject of the litigation, both of which are evoked linguistically. The same distinction and interrelationship exists in advice-giving between lawyer and client, although research on this more private context is sparse as previously noted. In a notable exception, Halldorsdottir (2006) carried out a detailed transcontextual analysis of an initial meeting between an English criminal defence solicitor and his client in a police station following the client's arrest on suspicion of burglary. Using an interactional sociolinguistic approach to analyse the meeting transcript, Halldorsdottir showed how in the course of advising the client, the lawyer not only drew on a range of texts in the hierarchy of legal and policing rules and laws, but created a text (in the form of case notes) for future use by himself and others when representing the client. Separately, Scheffer (2006) examined the work processes of an English criminal defence barrister meeting his client ahead of representing him in court, discussing how pre-existing institutionally produced texts were inextricably interlinked with talk in both the barrister's preparations for the court appearance, and subsequent oral presentation of his client's defence.

In the legal and legal education literature, most discussions of lawyer-client communication are focused on the initial lawyer-client interview, conceived as an encounter in which the client brings a legal issue to a lawyer for the first time. The case is thus assumed not to have a prior (legal) history of its own. Minimal attention is devoted to advice-giving in situations where the matter in hand already has a long legal history. In asylum and refugee family reunion legal advice-giving, an advice meeting with a client whose legal case has not yet begun may manifest a different kind of intertextuality to a meeting with a client whose case has been ongoing for some time. The latter meeting is likely to involve greater engagement with a range of institutionally- and legally-produced texts (as was illustrated in Scheffer's study, 2006), with prior legal events and texts requiring specialist knowledge and expertise to understand and interpret becoming relevant contexts for the advice meeting. Depending on the data collected, different types of intertextuality may be visible in this study.

### **3.4.3 Theoretical frame for the analysis**

In conceptualising how intertextuality works in legal advice settings, I draw on (but adapt) the approach Rock (2013) used in her analysis of the operation of intertextuality in a police interview with a crime witness, and Smith's (2005, 2006a) model of the 'intertextual hierarchy'. Smith, a sociologist, focuses on the role of written and other material forms of texts within the activities of institutions, looking at how people's activities are coordinated and organized within work settings in what she terms 'institutional ethnography' (Smith, 2005, 2006b). For Smith, texts are 'words, images, or sounds that are set into a material form of some kind from which they can be read, seen, heard, watched, and so on' (Smith, 2006a, p. 66). Texts in written/material form are the focus for Smith because of their permanence and consequent ability to 'coordinate people's doings translocally' (Smith, 2005, p. 166), organising the activities of large numbers of people within an institution or a network of institutions.

In her model of how written/material texts operate within institutions, Smith (2006a) describes how texts function institutionally as organizational tools and instruments of control, through an 'intertextual hierarchy', a 'regulatory hierarchy of texts' (Smith, 2006a, p. 66) within which 'regulatory texts' ('higher-order texts [that] regulate and standardize texts that enter directly into the organization of work in multiple local settings' (Smith, 2006a, p. 79)), created and imbued with authority by the bodies controlling the institution, direct how work processes within that institution are carried out. By establishing a 'regulatory frame' (Smith, 2005, p. 227), regulatory texts regulate the production and interpretation of lower-order subordinate texts, which themselves order and regulate how individuals within the institution go about performing the functions of the institution. Smith illustrates the circularity of the intertextual hierarchy with the diagram shown in Figure 3.2 below:



**Figure 3.2 – Intertextual Circles** (Smith, 2006a, p. 85)

Within the intertextual hierarchy, regulatory texts are used to direct the way in which the work of producing subordinate texts is carried out, and these are in turn validated as properly carried out only if they fit the regulatory frame established by the regulatory text. The law operates in precisely this fashion, with legislation (in England and Wales, created by the UK Parliament) functioning as 'regulatory texts' (Smith, 2006a, p. 79) governing and defining the work of the law enforcement institutions which enforce it through various subordinate rules, guidelines, forms and templates. As Smith explains, the work of these institutions constitutes the externalization and application to reality of the abstract principles of the law: 'the prescriptions of the law do not exist in an abstract theoretical space; they are locally incorporated into people's work and the coordinating of their work as a sequence of action' (Smith, 2005, p. 67).

Rock (2013) operationalizes Smith's concepts, and those of others (e.g., Linell, Katjamäki, cited in Rock, 2013) who have studied entextualization processes in similar institutional interactions, to examine the functions of intertextuality in the police interview. From a corpus of observations and recordings of 25 witness interviews, Rock selects one interview between a police officer and a crime witness for analysis. Rock finds that the police interviewer drew on 'three main types of primary text from the institutional hierarchy surrounding police interviews' (Rock, 2013, p. 85): the statements and interviews of others involved in the case; 'crime-specific texts' such as the statement control sheet and relevant police log; and 'generic' regulatory texts such as the law setting out the various elements of the criminal offence concerned, each of which the police must

prove in order to secure a conviction. The interviewer drew on the regulatory texts primarily to organize the interview and achieve elicitation from the witness, but other lower-order texts were used for a 'surprising range of functions' (Rock, 2013, p. 90) including setting the scene, facilitating questioning by foregrounding information, firming up on details of the witness's account, and relational work through humour. Rock develops a framework of five key 'variables of textual travel' evident in this particular institutionalized interactional setting, noting (but without further elaboration) that different combinations of these variables create different effects and serve different functions within the interview. Variables which were found to be significant in the police interview (represented in the diagram at Figure 3.3 below) are:

- the location of the recontextualized text in the intertextual hierarchy (drawing on Smith, 2006a);
- the textual distance between the interview talk and the recontextualized text (intratextual, i.e. drawn from another part of the same interview, or intertextual, i.e. drawn from a different text) (drawing on Linell, 1998);
- the temporal position of the recontextualized text in relation to the interview talk (prior, current, or future) (drawing on Smith, 2006a);
- who is the individual who recontextualizes; and
- the degree of explicitness of the recontextualization (drawing on Katajamäki, 2009).

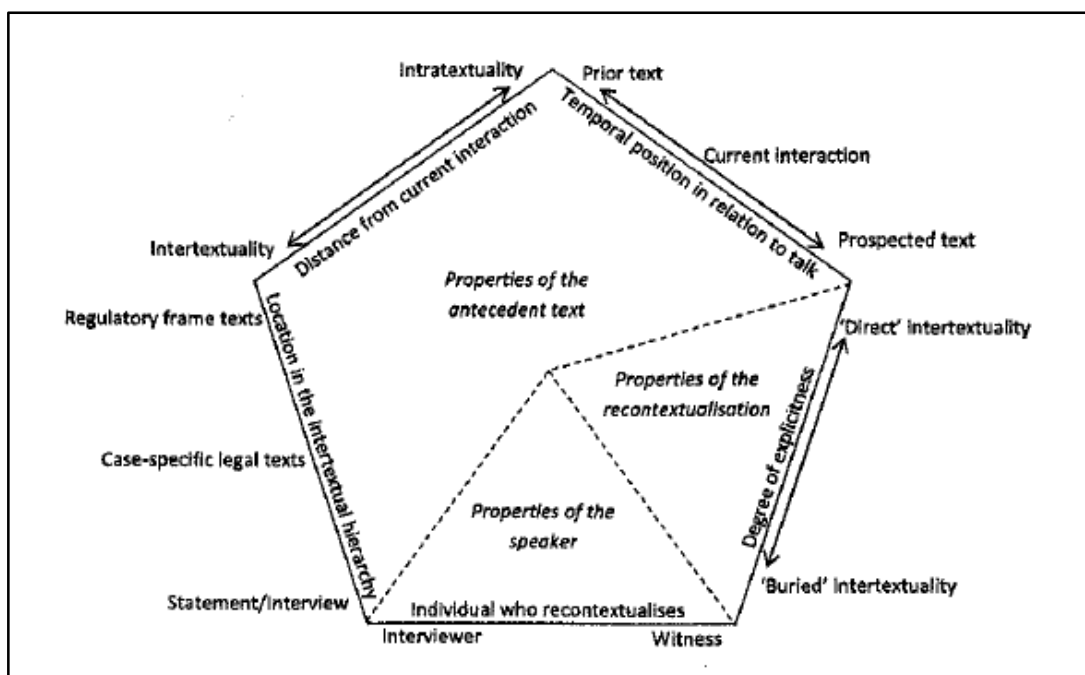


Figure 3.3 – Variables of textual travel in witness interviews (Rock, 2013, p. 99)



Rock stops short of elaborating a full structure for the intertextual hierarchy of the police interview, but with her analysis and framework she highlights 'diversity and patterns of intertextuality' (Rock, 2013, p. 99) in her data. Perhaps because of the importance of evidence-gathering in this institution's activities, Rock follows Smith in conceptualising texts as written documents, or texts in some other material form only.

In legal advice-giving meetings, however, the main purpose of the meeting is to provide oral advice to the client and there is a lesser focus on producing written texts. Both written and oral texts may be significant, as the client brings his or her legal issue to the meeting and recounts this in oral form, sometimes supplemented by documentation if there is already some kind of legal history to the matter. Of course, since advice is being sought and given on how legal and institutional documents of various kinds affect the client, texts in written form (which I refer to as "documents") are of great significance in this setting, and Smith's (2006a) model is highly applicable to the data. However, if a definition of "text" purely as a written or material object is used in an analysis of recontextualization work, the extensive work of drawing on and recontextualizing prior conversations or meetings in the oral information exchange taking place within legal advice meetings is missed. I prefer to adopt a definition of "text" which includes "texts" in a non-material form, such as accounts of previous conversations or discursive events, to analyse intertextuality. In so doing I link to, and draw from, the approach to discourse analysis across speech events described by Wortham and Reyes (2015). Adopting this approach recognises that both documents, and oral texts, can impact across space and time through 'intertextual chains' (several discourses, conversations, texts etc., which form links in chains of communication situations, recurrently recontextualizing and reformulating and reconstructing the same issue, Linell, 1998, p. 149 drawing on Fairclough, 1992). This provides a more complete picture of the interactional and intertextual work taking place in legal advice meetings.

In my transcontextual analysis, I therefore use the terms "text" and "discourse" in the same way as Bauman and Briggs (1990) in their foundational paper on entextualization and decontextualization processes. "Discourse" here broadly refers to communicative interaction situated within a particular context (Bauman & Briggs, 1990), and it may occur in a range of modalities, including talk-in-interaction, monological speech, or written texts (Linell, 1998). A "text", in contrast, is a piece of discourse extracted from its original communicative context and which can be transported and used in a different communicative setting (Bauman & Briggs, 1990, p. 73). Texts will often appear in written form, but may also manifest in other modalities such as within speech, or other forms of media. **Entextualization**, 'the process of rendering discourse extractable, of making a stretch of linguistic production into a unit - a text - that can be lifted out

of its interactional setting' (Bauman & Briggs, 1990, p. 73), transforms a piece of discourse into a text by **decontextualizing** it, and when a text is replanted into a new interactional setting it becomes recontextualized. **Recontextualization** entails 'placing text in a 'new' context, thus adding new metapragmatic frames to the text' (Blommaert, 2005, p. 254), and opening it up to a different interpretation using the frames of the new setting. That is not to say that recontextualized texts are always entirely sanitized of their originating context(s), as Bauman and Briggs explain: 'entextualization may well incorporate aspects of context, such that the resultant text carries elements of its history of use within it' (Bauman & Briggs, 1990, p. 73).

As was illustrated in Halldorsdottir's (2006) study of advice given to a criminal suspect in a police station, legal advice meetings are highly likely to feature intertextual chains arising from processes of decontextualization and recontextualization of both written and oral texts. In the context of researching legal advice meetings, within which talk and text have such a close relationship, this form of transcontextual analysis allows me to respond to my primary research question from a new angle, examining how texts (both oral and written) are used as a means of communication across languages and cultures in legal advice meetings (responding to the first subsidiary research question), as well as examining the ways in which key contexts surrounding the legal advice interaction are brought into it through recontextualizations of texts of different kinds (the second subsidiary research question). I can also examine the impact of entextualization processes operating in the law on the possibilities for agency, and control, within advice meetings where interaction is intercultural and/or multilingual (the third subsidiary research question).

## **Chapter Summary**

In Chapter Three, I have made clear my relativist ontology, and set out the critical social constructionist epistemology and corresponding methodological approach that I adopt to answer my primary research question about multilingual and intercultural communication in refugee and asylum legal advice meetings. I have explained how linguistic ethnography provides an appropriate methodological frame for the study, and have explored what the chosen central discourse analytical tools of communicative activity type and intertextuality can contribute to investigation of the primary and subsidiary research questions.

In the following Chapter Four, I describe the research methods used and the research process undertaken to answer the research questions, and also introduce the context within which the study took place.

## **Chapter Four: Methods and Research Context**

In Chapters One to Three, I presented the substantive, theoretical and methodological underpinnings of this study of communication in asylum and refugee legal advice meetings. I noted that the study poses various challenges for me as researcher, including the negotiation of access to a suitable research site, questions of researcher positioning and of how research can be ethically conducted in this sensitive communicative setting, and in all of these, how questions of researching multilingually (see Chapter One, section 1.4) arising from the unpredictability of the linguistic and cultural mix at the research site, and the collection of data in multiple languages, can be approached. A continual reflexive attention to ethics and the evolving research situation, was required from me as researcher throughout. In this Chapter Four, I set out the research process followed, including how these challenges were variously dealt with. I also introduce the reader to the principal research site for the study.

This chapter contains five sections. In section 4.1, I discuss the planning and preparation undertaken for the study, including planning for researching multilingually and ethical considerations. Section 4.2 presents an account of the fieldwork and data collection process, and section 4.3 reports on the data analysis undertaken. In section 4.4, I reflexively discuss my own identities and positioning in the research process, and the impact that this has had on the research. Section 4.5 comprises an introduction to the advice service within which the data presented in Chapters Five and Six were collected.

### **4.1 Research planning, ethics and researching multilingually**

I began the study with an intended focus on legal-lay communication in formal settings within the UK asylum process, taking in applicants' interactions with both legal advisors and with institutional officials. I hoped to observe and audio record asylum-related legal advice being given in at least one advice organisation, and ideally two or more, although I knew that resource and time constraints would prevent me from conducting research in overly many sites. I also proposed to research communication during asylum interviews at UKVI if access could be negotiated. I was, however, aware that because ethnography is relationally-based, dependent on researcher-participant relationships that develop on an ongoing basis throughout fieldwork (Coffey, 1999), this study would be, like all linguistic ethnographic studies, to some extent unpredictable in the extent to which I would fulfil my aims.

Faced with this uncertainty, Copland and Creese highlight the agency of the researcher as a key aspect of linguistic ethnography, positioning the linguistic ethnographer 'as a decision-maker,

agentive in shaping possibilities, relationships and outcomes' (Copland & Creese, 2015, p. 9). Whilst my experience proved this to be true to some extent, I also found that my research focus became positioned by emergent circumstances during access negotiations and fieldwork. I did not procure any interactional data from asylum interviews at UKVI, for reasons explained in section 4.2 below. In respect of legal advice, the project evolved through fieldwork (as also discussed below) to focus not on initial legal advice to asylum applicants, but rather on advice on late-stage asylum cases and refugee family reunion applications. Thus, the data I eventually obtained differed in some respects (but not in others) from those which I had planned to obtain, and the focus of the study shifted accordingly. This is not unusual for ethnographic studies, which develop in an emergent way through engagement and negotiation with participants in the field (Brewer, 2000).

#### **4.1.1 Planning the research**

In the months before fieldwork commenced, I researched asylum advice-giving services in England (see Chapter One, footnote 2), planned how I would approach collecting data, and applied for ethical approval for the study from the Ethics Committee of Durham University School of Education (a copy of the application and accompanying research proposal is at Appendix E). Confirmation of ethics approval (see last page of Appendix E) was obtained in August 2015, and the fieldwork period lasted from September 2015 until August 2016.

Beginning in 2014, and for nearly a year prior to fieldwork, I also volunteered at an English conversation group providing a social space and informal English teaching for refugees and migrants, including asylum seekers. I wanted to try to understand what I could about the life spaces of asylum applicants in England, and the everyday issues that they face, through personal engagement. The English group provided me with an introduction to people within those spaces, and to the communities within which asylum applicants typically find support and information. During fieldwork I carried out interviews with some members of these communities (asylum seekers and NGO workers) as a means of gathering background information about accessing asylum legal advice. I also saw my volunteer role in the English group as a means of giving back indirectly to the broad community that I was engaging with in research.

I knew that finding a site to research asylum legal advice interaction would be a challenge, and planned a variety of approaches to identifying a site or sites, and collecting data. First, I planned to make contacts with asylum solicitors or caseworkers by attending (publically accessible) asylum appeal hearings at the Immigration and Asylum Tribunal (the IAT) and training and networking events for immigration lawyers, emulating the participant recruitment process followed by Farrell

(2012). Second, I planned to approach asylum solicitors and caseworkers (identifiable through public registers) speculatively by letter or email, asking for an interview as a first step, and using personal contacts where possible to refer me to these professionals in order to increase the chances of a positive reply. Third, I looked for opportunities to volunteer within NGOs providing asylum legal advice as a means of gaining exposure to this area of legal practice. In each case, the aim was to find one or more solicitors or caseworkers interested in participating in the study, and who would become key participants and/or gatekeepers.

Having no personal contacts with UKVI, I planned to engage with UKVI initially via speculative letters to identifiable offices and staff carrying out asylum casework, and I researched office addresses online. I also hoped that as my engagement in the field increased as fieldwork progressed, I might come into contact with people who had such personal or professional contacts amongst UKVI staff, and that I might be able to further access negotiations this way also.

#### **4.1.2 Ethical considerations in planning**

Murphy and Dingwall highlight four key principles underlying the assessment of the ethics of research: **respect for autonomy** (informed consent and right to withdraw); **beneficence** (research being in the interest of the participants); **non-maleficence** (no harm should arise from the research); and **justice** (all persons involved should be treated fairly and equally) (Murphy & Dingwall, 2001). I considered these when designing and implementing my research, also bearing in mind that research ethics 'is about what is right and wrong in the research process, contingent on the context' (Copland & Creese, 2015, p. 177).

I planned to ensure respect for autonomy through making the participant information and consent process as accessible as possible, making clear throughout each participant's right to withdraw at any stage. My research participants were divided into three broad categories: (a) institutional professionals (solicitors or caseworkers; or UKVI officials); (b) interpreters; and (c) asylum and refugee clients. I approached each category of participant differently because of their differing positions and roles, preparing a separate Participant Information Form for use with each (see Appendix E). I planned to ask the professional participants (legal advisors, interpreters and institutional officers) for a signed declaration of consent, but not to require a signature from client participants in order not to unnecessarily increase the pressure on these individuals, who would already be facing the possibly stressful situation of an advice meeting with their lawyer or an asylum interview. This decision was also influenced by the unpredictability of the linguistic and cultural resources of client participants (see the ethics application at Appendix E for more detail).

Addressing the question of benefit to participants, I envisaged that I would be able to feed back research findings to some of my key participant(s), in particular the gatekeeper professionals, potentially impacting on their communicative practices. I did not expect to be able to necessarily do this with other participants, however, because I could be less certain of any sustained contact with them. Ethnographic interviews were sometimes beneficial to individuals by giving them a sense of empowerment, and an opportunity to share their experiences. However there was no immediate benefit to those participants who agreed to the observation and recording of their advice meetings; I explained this to clients and interpreters, emphasising that by participating, individuals would be potentially helping others in similar situations in the future (through dissemination of my findings) but would not benefit themselves. I was clear throughout that the focus of my research is on language and communication, and not other aspects of the process such as the legal procedure, in order to avoid assumptions that I would be in a position to help participants with their legal case or would be judging the performance of officers or legal advisors from a legal perspective.

In relation to potential for harm, I foregrounded aspects of vulnerability arising for different participants. Vulnerability in research can arise in a range of ways, only some of which are addressed in ethical research codes/guidelines (Perry, 2011). Perry argues that vulnerability is context-dependent, 'an interaction between the participant's characteristics and the nature of the study', and advocates thinking outside of the institutional 'box' when addressing participant vulnerability. I identified, and planned how to deal with, two aspects of vulnerability that are relevant to my study but overlooked by the various ethics guidelines applicable to it.

The first was the socio-economic vulnerability of refugee and asylum seeking participants, a concern in the carrying out of research with such populations (Perry, 2011). I recognized that client participants may be vulnerable because of physical or mental health problems arising from their past experiences, and also because of their socio-economic position on the margins of society, which, for those who have been refused refugee status, is exacerbated by precariousness, uncertainty, and sometimes destitution (Cuthill, Abdalla, & Bashir, 2013; Griffiths, 2014). In addition, I knew that my research request may fall at a sensitive moment for clients bringing legal issues of great personal concern to lawyers for advice or attending an asylum interview. I determined to take a situated approach as far as possible, evaluating in each case whether it would be appropriate to ask any one individual to engage in the research, and in particular taking guidance from others (the lawyer, any other staff) who may know more about each client's circumstances than me. This would be easier to do in the legal advice context where the client's circumstances may already be known to professionals, than in the UKVI context where UKVI

would not have any detailed prior information about the applicant's circumstances. The second overlooked aspect of vulnerability was the professional vulnerability of participants whose work-based identities are brought into research, a concern for its writing up and publication (Rock, 2015). I planned to deal with professional vulnerabilities arising from research results through agreeing access with employers of relevant individuals as well as individuals, and discussion with key stakeholders in advance of any publication wherever possible to agree a suitable approach. I also anonymised all data at the transcription stage and took steps to avoid inclusion of data from which individuals could be personally identified.

As regards cultural differences, the BAAL guidelines state that 'researchers have a responsibility to be sensitive to cultural, religious, gender, age and other differences: when trying to address the potential impact of their work, they may need to seek guidance from members of the informants' own communities' (British Association for Applied Linguistics, 2006, p. 4). This approach to intercultural ethics, in which 'talk between parties forms the basis of ethical decisions' (Copland & Creese, 2015, p. 186), is termed 'discourse ethics' (Copland & Creese, 2015, p. 186 citing Habermas, 1995). It was difficult for me to canvas the views of members of every possible cultural community that I might encounter, but I had some informal conversations in advance of commencing fieldwork with asylum seekers and support workers at the English group about my research plans and their views of my proposed approach. The feedback I received from these conversations was largely positive, and some commented that it was an interesting project that they would be happy to be involved in, although many also recognised that sensitivity to the particular situation of individual clients would be required, particularly in asylum interviews.

I disagree with the implied positioning inherent in Murphy and Dingwall's (2001) description of their last criteria of justice in research, that all persons involved should be treated fairly and equally. Fair treatment does not necessarily mean equal treatment, and I sought to maintain a reflexive and responsive stance in relation to research conditions, so that I could determine what would be fair treatment for each individual. Not all participants were treated equally, because they were not of equal standing. My approach to the provision of translated information about the study for participants, discussed in section 4.1.4 below, illustrates this.

#### **4.1.3 Planning for researching multilingually**

Because of the unpredictability of the linguistic and cultural backgrounds of asylum applicants and refugees, I needed to carefully consider how I would approach questions of researching multilingually during data collection, analysis and writing up. Holmes et al. suggest a three-step process for researching multilingually, involving realization, then consideration, and finally

informed and purposeful decision-making (Holmes et al., 2016, p. 90) in the planning and execution phases of research. From the start I knew that I would be researching multilingually, but the concrete meaning of this only emerged during fieldwork.

As part of preparation, I reviewed the literature to see how other applied linguistic researchers had approached dealing with multilingualism in research. Approaches similar to linguistic ethnography (LE) have been fruitfully used in a wide range of studies, including many discussed in Chapters Two and Three, to research multilingual and/or intercultural communication (Bremer et al., 1996; Davidson, 2010; Dieckmann & Rojas-Lizana, 2016; Gumperz, 1982a, 1992, Jacquemet, 2010, 2015; Kramsch & Whiteside, 2008; Maryns, 2005, 2006; Maryns & Blommaert, 2002; Moyer, 2011, 2013, Roberts, 2009, 2013; Scollon et al., 2012; Tranekjær, 2015; Trinch, 2001). Of these studies, the majority examine interaction in languages that the linguistic resources of at least one of the authors allow them to analyse without translation.

As mentioned in Chapter One, a complexity of this study was that data may be collected in languages that I have no resources in. Only the studies by Moyer (2013) and Maryns (2006) feature comparable situations, of researchers discussing multilingual data in languages that they do not have resources in. A different approach to this is adopted by each researcher. Maryns (2006) does not foreground the issue, since most of the data that she analyses comprised interactions taking place in a mixture of Dutch, English and French (all of which Maryns is proficient in), and occasionally African language varieties that Maryns has some familiarity with from earlier work. However, Maryns does analyse some data from interactions where she does not understand the L1 of the applicant, and in these instances the level of her analysis is more limited. For example, she discusses the use of two interpreters for a layered translation from Tigrean to Amharic to English in one case, due to there being no Tigrean-English interpreter available. Her discussion focuses on the second interpreter's low level of proficiency in English (both written and oral), concluding that it is obvious that contextual information has been lost in the translation, but that her insight into the situation is 'fragmentary' (Maryns, 2006, p. 239).

Moyer (2013) draws on the assistance of an Urdu-speaking colleague for transcription and translation of data in Urdu collected in her investigation of multilingual practices in a Barcelona health clinic. Moyer then draws on the translation for analysis, looking at interactional roles and interpreter mediation of the doctor-patient relationship. No detailed analysis of e.g. features of turn taking, interruption, prosody in these interactions is attempted: Moyer's focus is on the performance of interactional roles through verbal means, and she works with a translation to draw conclusions about this. I reflected that Moyer's approach of working with translations of transcribed multilingual data offered potential for my study, if appropriate resources could be



procured, and I began searching for sources of funding that I could draw on for this purpose (some limited funds were obtained from a university-related research fund).

A further approach that should be mentioned to the challenge of a multilingual research site in linguistic ethnography is to opt for a multilingual team ethnography (Creese, 2015). By ensuring that there is one person within the research team who has the necessary linguistic resources to analyse data, as well as transcribing and translating for the rest of the team, multilingual data can be comprehensively analysed. This approach works in well-resourced projects and in research situations where the mix of language varieties at the research site is predictable. My study, however, was undertaken as a doctoral project, with limited resources, and within a proposed research site of considerable unpredictability. My approach to what data I can analyse, and how, needed to remain flexible and mindful of the limitations that I was working within.

#### **4.1.4 Informed consent and researching multilingually**

A practical example which was relevant during the planning and early implementation stage was the informed consent process. I procured ethical approval on the basis of providing English versions of participant information and consent documents, with an undertaking to have these translated into relevant languages for client/asylum applicant participants wherever possible, or alternatively orally explained in a language understood by the participant. I took the view that I did not need to provide translations for interpreters, because although these individuals would generally be non-native English speakers, they would have sufficient English linguistic resources to understand the English forms – an example of unequal, but fair, treatment of individuals.

Early interviews with asylum solicitors (see section 4.2 below) identified that the most common client languages encountered in asylum legal advice were Arabic, Farsi, Dari, Tigrinya, Amharic, Urdu, Punjabi, French, and Kurdish (Syrani, Bahdini and Kurmanji varieties). Of these, I have extensive linguistic resources in French and limited resources in Modern Standard Arabic (but no other varieties of Arabic). Perry (2011) points out to English-speaking researchers working with non-English speaking populations that a lack of proficiency in English is not the same thing as a lack of capacity to provide informed consent or participate in research; and that the researcher must ensure that appropriate linguistic support is put in place to enable the participant to consent to take part, and then take part, in the research with full information. To address the question of participant inclusion, information and consent, I decided to procure translations of my client Participant Information Form into Modern Standard Arabic (the most commonly encountered written form of Arabic) and Farsi first of all, and commissioned translations from a commercial translation company advertising its services to academics.

In order to verify the accuracy and usability of the translations received, I asked two fellow PhD students, L1 users of Arabic and Farsi respectively, to review the translations for me and recommend any changes. Both students recommended a range of changes to correct typographical errors, improve the stylistic and pragmatic accuracy of the translations and make them read more clearly to participants. Examples of recommended changes were (a) leaving ‘UKVI’ in English rather than using the literal Farsi translation provided, which made little pragmatic sense in Farsi; and (b) replacement of the translations of the word “communication” into Arabic, and of the word “process” (from ‘asylum process’) into Farsi, with more pragmatically suitable terms, as shown in Table 4.1 below.

**Table 4.1 - Example amendments to translations of Participant Information Forms**

	Term used by professional translator	Term recommended by PhD student reviewer
Arabic	الاتصال	التواصل
	<i>al’atisaal</i> , communication (via telephone or internet)	<i>al tawasul</i> , communication (directly between humans)
Farsi	فرایند	پروسه
	<i>faraayand</i> , process (formal register)	<i>proosa</i> , process (less formal register)

Track changed, and final, versions of the Arabic and Farsi Participant Information Forms are at Appendix F. The whole verification process highlighted that the texts produced by professional translators, who were removed from the research and had no background knowledge about it, had been somewhat decontextualized from the focus of the research; the verification exercise was a means of correcting this. I relied on my linguistic informants during this process and have had to place trust in their linguistic skills and knowledge of the context of the research (gained from their own experiences of conducting doctoral level research, and from me through discussion and questioning). This is an imperfect solution, but also highlights that no translation is an exact rendering of the original, and that it is important to verify translations of research instruments (Young, 2016).

## 4.2 Fieldwork and data collection

Cicourel (1987) argues that researchers should be explicit and honest about how data are collected and the circumstances under which they are collected. In the limited space available I will recount the process of fieldwork in this section. I kept a fieldwork journal, which I have drawn

on in the thesis, and particularly in this chapter. I also collected a range of semi-structured interviews, and observed and (in most cases) audio recorded legal advice meetings. A table detailing the interview and audio data collected is at Appendix G.

#### **4.2.1 Locating and accessing research sites**

##### **Legal advice**

I started fieldwork in September 2015 with approaches to lawyers. My first strategy, of making contacts through attending the IAT and training events, was not successful; I attended a couple of training events in London and elsewhere, and observed a number of IAT hearings, but did not make any reliable contacts. In the English legal system (unlike in Scotland where Farrell (2012) carried out fieldwork and where appeal and legal aid processes are different), I found that asylum solicitors do not regularly attend the IAT. Where legal aid funding is available, barristers are often instructed to represent asylum clients at the appeal hearing instead of the solicitor attending. Where funding is not available, the asylum applicant is usually unrepresented. I witnessed only one solicitor representing a client at the IAT, but the timing and logistics of the hearing meant that I was not able to talk to her.

My second strategy of making direct written approaches yielded more success. I identified solicitors' firms and NGOs providing asylum legal advice in different parts of England where I knew I could procure accommodation during fieldwork if needed, using the online register of solicitors (Law Society, 2017) and other internet resources, and contacted a large number of these by email, asking for an interview about communication in asylum advice-giving. Many of these approaches were ignored, or rebuffed citing workload pressures, reflective of the great pressure that asylum legal advisors work under generally. The majority of positive responses came from solicitors or caseworkers in private practice or working in NGO settings who had been recommended to me by personal contacts. I secured a number of interviews with lawyers and caseworkers this way. Only one of these, however, led to an invitation to attend and observe an advice meeting, subject to the consent of the client and interpreter involved. A second lawyer expressed a willingness at interview to allow me to attend an advice meeting, but in the weeks that followed, the law firm that the individual worked for closed suddenly, and we lost contact.

This first lawyer-client advice meeting observation, which took place in a private practice setting with a legal aid-funded client to prepare an appeal witness statement, served as a 'pilot' experience for me in a number of ways. First, it sensitised me to the gatekeeper role that lawyers would play in my study; the lawyer in effect picked which meeting to invite me to according to her knowledge of the client and the case. Second, consent was not given to audio record the

interview, and the experience of taking observational notes made me aware firstly, of how much was missed by not audio recording conversations, and secondly, of the prominent position I occupied in the lawyer's office when my sole purpose there was as researcher: several times, I ceased making notes when conversation fell quiet in order not to intrude on the silence. I commented later in my fieldwork notes that 'I didn't feel like I infringed much on the situation' for the participants, because they were all focused on preparing the statement for the appeal hearing the following week, but that I felt very conscious of my own position. This first observation became a formative experience for the remainder of my fieldwork. From this experience, and my other numerous but fleeting contacts with private-practice immigration lawyers, I took away the impression that these individuals were working under intense and sustained pressure, often longer hours than they were paid for (see also Farrell, 2012, who reports similar findings). As a former lawyer myself I concluded that a lack of interest on the part of private practice legal aid solicitors in engaging with me further and inviting me in to their consultation rooms was only too understandable; their professional lives were complicated enough as it is.

It was through volunteering that I was able to establish a more durable relationship with individuals and organisations, and secure permission to collect more extensive research data. I made contacts with two organisations in the not-for-profit sector offering legal advice services to asylum applicants, both of which recruited volunteers, and from the autumn of 2015 until summer 2016 regularly attended both in a dual role as a volunteer-researcher. I spent two days per week at the first of these, a city-based advice service (the '**advice service**') within which solicitors and paralegals offer free advice on a range of legal and related matters including asylum and refugee family reunion. I also spent one day per week at the second organization, an advocacy-based NGO ('**the NGO**') in a different city employing OISC-accredited caseworkers to advise refused asylum seekers. Part of my ability to access these environments in a volunteer capacity may have been my lawyer identity. I made clear from the first contact, however, that I was interested in collecting data on legal advice communication for my doctoral research as well as volunteering, and that (not having the necessary qualifications in immigration law) I was not in a position to assist with any legal casework, nor was this my aim. Management and staff at both organizations were interested in my research goals and happy to explore these, and more general volunteering roles, with me.

At the advice service, the clients comprised both asylum seekers and refugees applying for family reunion visas. At the NGO, the clients were all refused asylum seekers. The focus of both services was on advising individuals who could not gain access to legal aid – this meant all applicants for

refugee family reunion; and also those asylum applicants who had been refused at least once, and whose cases had been assessed as standing a less than 50% chance of success (see Chapter One, section 1.1). The client population that I engaged with in the legal advice setting was therefore slightly different from that which I had anticipated when planning the study.

This shift had particular implications for this study, in that most clients had had some previous exposure to the legal process and legal advice settings, but the nature and extent of that previous exposure was highly unpredictable. At one extreme, a refugee whose asylum application was granted immediately and who then seeks the advice service's help with a family reunion visa application may only have seen a lawyer once or twice previously for advice on their asylum application, and may have only been in the UK for six months. At the other extreme (reflected in the complexity of the diagram in Figure A1 in Appendix A), a late-stage asylum seeker attending the advice service may have been waiting several years for a decision, may have been refused by the immigration authorities and have gone through one or more processes of appeal, and/or may have made one or more fresh claims with new evidence. They may have spent periods of time in detention, and/or living in destitution, dependent on charity, or working illegally to support themselves. Such individuals may have had contact with many different lawyers. Hence, nothing could be assumed about the linguistic, languacultural and discursive resources of clients who contacted the advice service for asylum or refugee family reunion advice, or the NGO for asylum advice. Length of time engaged in the asylum system, or success in obtaining refugee status, was no guarantee of greater knowledge about the system or greater language skills, and experiences of engagement with lawyers varied.

Both environments provided me with a rich ethnographic context for observing the processes of legal advice-giving to asylum and refugee clients, and I interviewed staff, interpreters and volunteers at both research sites about their work. In the end, however, I only collected audio recordings of advice meetings at the advice service, where meetings between solicitor and client took place in a separate meeting room. At the NGO, advice sessions usually took place in rooms that were shared with others, such that two advice sessions were often running simultaneously in one room. This made audio recording advice meetings challenging and ethically questionable, because it was likely that elements of other conversations, featuring individuals who had not consented to the recording, would be captured. Consequently, although my ethnographic fieldwork at the NGO has informed this thesis, the findings centre on the legal advice offered at the advice service, some of which I was able to record. The study thus evolved, influenced by ethical and practical considerations, to become a case study of one lawyer's communicative practices with a range of clients in the late-stage asylum and family reunion context, rather than

a potentially comparative study of several advisors' practices in different settings and stages of the process.

## **UKVI**

Early attempts to engage UKVI in discussions about research access during August – October 2015, first through speculative letters, then telephone calls and emails to UKVI contacts given to me by other research participants, were unsuccessful. No substantial personal connections existed to support these first attempts, which may have meant that it was easy for representatives of UKVI to either ignore or decline my requests. Then, I attended an academic/legal professional knowledge-sharing event towards the end of 2015 on the topic of communication in credibility assessment in asylum, at which I was able to make personal contacts with two senior representatives of UKVI's asylum casework directorate who were also attending the event. Following up with these contacts early in 2016 quickly led to open and fruitful discussions about my research interests and request for research access.

My access negotiations with UKVI representatives were lengthy, due to institutional processes that had to be completed to get permission for a researcher to access this context. I was eventually granted permission to interview UKVI staff about communication in asylum interviews, and did so in July and August 2016, but I was not granted research access to observe actual asylum interviews; the reason given was the time it would take to obtain the necessary higher-level security clearances. By this point, I had been negotiating for access for around six months, and I knew that I did not have the flexibility within my research timetable to wait indefinitely for this to be agreed; I therefore let this part of the research proposal fall away. The interview data gathered from UKVI are not drawn on in this thesis, because these interviews focused on the initial asylum interview and decision process, and are not relevant to the emergent focus of the thesis on late-stage asylum and refugee family reunion legal advice. They will be the subject of future work.

Thus, the primary research site for this thesis is the advice service that I attended between October 2015 and June 2016. I introduce this, and the data collection carried out within it, below.

### **4.2.2 Introducing the advice service: the research site for the study**

The advice service is a small but well-established and extremely busy office located in a major English city. It offers free legal advice on a range of matters. The service is an independent, charitably registered not-for-profit organisation, whose aim is to provide legal advice and support to individuals unable to fund private legal advice. The service has a range of funding sources, sourced unilaterally or through partnership initiatives between the advice service and other

organisations. The nature and extent of legal advice available at the advice service, and eligibility criteria for clients seeking advice, is linked to its various funding streams.

The office of the advice service is staffed by solicitors, paralegals (individuals with legal training but who are not fully qualified solicitors or barristers, working under the supervision of more qualified staff), a small number of administrative and management staff, and several regular volunteers including university students assisting with office tasks and qualified lawyers offering pro bono advice. Legal advice is offered through a mixture of guidance notes and resources available from the advice service, telephone advice lines on particular aspects of law, face-to-face advice appointments for individuals, training sessions and workshops on specific legal issues, and outreach activities such as drop-in advice sessions at other local NGO premises. Much of the work is one-off advice, but solicitors and paralegals also carry out extended case work for some clients.

Immigration and asylum legal advice has been a longstanding service area: the advice service is located in a city which, in addition to being a dispersal area in which the Home Office provides accommodation for asylum applicants whilst a decision on their asylum claim is pending (many of whom stay in the area after obtaining refugee status), has significant immigrant worker and student populations. The immigration and asylum solicitor, Julia (a pseudonym), advises on a wide range of matters, including refugee family reunion and later-stage asylum cases in relation to which clients cannot access advice funded by legal aid (private immigration law firms do handle such matters, but charge significant fees). These were the advice interactions which I eventually observed, and which define the scope of the thesis within the asylum process as a whole.

Below I shall outline first the ethnographic work I did at the advice service, then the process of collecting interactional audio data of legal advice meetings.

#### **4.2.3 Data collection at the advice service**

The type of ethnography carried out in an LE study is, as noted in Chapter Three (section 3.2.1) above, usually rather less engaged than a full anthropological study. A broad definition of ethnography which is perhaps appropriate for LE is given by Brewer:

Ethnography is the study of people in naturally occurring settings or 'field' by methods of data collection which capture their social meanings and ordinary activities, involving the researcher participating directly in the setting, if not also the activities, in order to collect data in a systematic manner. (Brewer, 2000, p. 6)

Linguistic ethnography is topic-focused and may be selective about which physical or temporal spaces within the research site are observed; observations are focused specifically on the meanings that 'context' has for the communication being observed. Yet, since almost any aspect of the research site and its goings-on may be or become relevant in communication, the same kind of detailed attention to surroundings and activities that is required in anthropological ethnography is demanded of linguistic ethnographers.

I spent an initial three-month period attending the service weekly in a general administrative role, and carrying out **participant observation**, allowing me to familiarise myself with the organisation and how it works. During this period I carried out various volunteer tasks, including staffing the reception desk, greeting clients, taking phone calls, and updating client database. I thus became somewhat familiar with the wider routines and practices of the service around legal advice meetings, and the processes that clients went through before securing an advice appointment. I made field notes to document my involvement in the research process and observations and experiences at the research site. I held a formal interview with the immigration lawyer Julia early on during this period (formal interviews with other key participants happened later on during fieldwork where it was possible to arrange these), and informal interviews and conversations with other staff members. Interviews and field notes were drawn on as a source of data for understanding how language is used and communication takes place in the social setting of the advice service.

With regard to **observing and audio recording legal advice meetings** at the advice service, I explored proposed approaches to collecting audio data with Julia in advance, and we agreed on a process that worked well in practice. After the first three months had passed I began shadowing Julia, attending two days a week, carrying out simple research and administrative tasks and going to meetings with her in a volunteer capacity to take notes for the advice service's files where this supported her work. Taking notes in client meetings is a role usually performed by a trainee or person with legal training, due to client confidentiality obligations; my lawyer identity, discussed further in section 4.4 below, was instrumental here in gaining access to this setting (I have not drawn on information from any such meetings in this thesis, except where the meeting participants gave informed consent to the research).

Once audio data collection started, Julia would begin suitable meetings by introducing me as a volunteer and a research student, and would then allow me to explain the research, give out Participant Information Forms, answer questions, and ask permission of everyone in the room to audio record and observe the meeting. The interpreter's help was enlisted to interpret this if needed, and wherever possible I spoke separately to the interpreter in the reception area in



advance of the meeting, to explain the research and seek their consent. I used an audio recording application on my Ipad as my recording device, because I considered this less obtrusive than a traditional microphone or a Dictaphone. If everyone gave consent, I would start the recording and then leave the Ipad on the meeting room table for the rest of the meeting. Because this was the procedure adopted, I did not often capture initial greetings and introductions on the audio files. Audio files were transferred to my computer at the end of each day and deleted from the Ipad to minimise the risk of loss.

Drawing on her knowledge of the circumstances and vulnerability of each client, Julia would sometimes ask me not to come to a meeting or not to approach a client for consent to collect data. This made the interactional data collection quite unpredictable for me, and of course one consequence is that the data I did collect cannot be fully representative of all of Julia's advice interactions. I was, however, comfortable that the vulnerability of many clients was being respected in the research process. It was harder for Julia to 'screen' meetings with first-time or one-off clients, so not every meeting was filtered in this way, however.

#### **4.2.4 Data collected**

Over a four-month period between February and May 2016, I collected a corpus of around 17 hours of interactional audio data at the advice service, comprising 22 audio recordings of Julia's client meetings in asylum and family reunion advice contexts, involving 17 different clients of 10 different nationalities (I observed some family reunion clients more than once, where they had follow-up appointments). 12 of these meetings took place in English, and 10 were multilingual, with eight meetings using Arabic, one Chinese, and one Tigrinya. Eight different interpreters were involved, two of whom (both Arabic interpreters) were professional and six non-professional ('professional' here means an individual who is normally paid for their services and who also has at least a Level 3 Certificate in Interpreting qualification; see section 4.5.3 and Appendix D).

One further recording of a legal advice meeting was made but not used, because a phone call was made to a friend of the client during the course of the meeting to interpret. I was unaware in advance that the call would be made, and this interpreter was unaware of the research and had not consented to it, thus the audio data were destroyed (see Appendix G). I was present for all recordings, and observational notes accompany all audio recorded meetings; see Appendix H for an example from Meeting Five.

Over the whole fieldwork period, I also made fieldwork notes on a day to day basis, trying to 'record the lived stuff' and the 'social complexity' (Copland & Creese, 2015, p. 38 citing Blommaert, 2007) of my fieldwork sites and encounters and my experiences within them.

Drawing on Emerson, Fretz and Shaw (1995), I took jottings (brief notes or key word reminders) in a notebook or on the notes app on my phone during the day, and occasionally recorded audio notes-to-self with my phone's voice recorder app where this was more convenient. I then wrote these, and my experiences, up into an account of the day's events that evening. I tried to include notes about small, humanising details, subjective reactions I had undergone, and to create lively descriptions of people, places and encounters, with varying success (I found that the sooner notes were made after fieldwork, the more detailed they were). I drew on fieldwork notes when analysing data and writing up findings, to remind myself of details or of my impressions of a certain event. An extract from my fieldwork notes is at Appendix I. I also collected documents from in and around the research sites where relevant, although these feature less in my analysis (see further Chapter Seven, section 7.3.1).

Finally, throughout the research period I carried out a range of semi-structured interviews with different actors in the field, to gather background data on the subject of language and communication in legal advice and in the asylum process generally. I obtained interviews with solicitors and OISC caseworkers (11); interpreters working in asylum legal advice settings (5); the head of a community interpreting training agency (1); refugees and asylum seekers (3); and representatives of, or volunteers with, NGOs supporting asylum seekers and refugees (4). I also obtained interviews with a range of UKVI staff on communication in asylum interviews. Some of these interviews were with participants with no connection to my two ethnographic research sites of the advice service and the NGO; others however had some involvement with one or other site (see further Appendix G).

Unfortunately, I did not obtain interviews with any of the clients whose advice meetings I recorded. I had originally planned to invite these persons to focus groups to discuss their experiences, but in practice, there was no opportunity at the end of advice meetings to talk with the clients about this and obtain contact details. I also found it difficult to recruit asylum seeker and refugee participants for focus group sessions through my general networks; I reflected that perhaps, individuals would prefer to have one-on-one conversations on the topic, and I eventually obtained three one-on-one interviews with individuals by putting out a call for participants to my networks (see Appendix J). I translated this into French, and the same PhD student contact who had reviewed the Participant Information Form provided me with an Arabic translation. Two of the resulting interviews were conducted in English, and the third, with a refugee from Sudan, took place in Arabic and English, for which I recruited an Arabic-speaking MA student with experience in interpreting to accompany me as interpreter. The interview schedules used for ethnographic interviews were adapted from the draft schedules submitted with the ethics application (see

Appendix E). Interviews were audio recorded where permission was given; where participants preferred not to be recorded, notes were taken and a record typed up as soon as possible afterwards.

I collected a large amount of data, and in my analysis (reported in section 4.3 below) I was therefore selective, focusing on those items that are most relevant to the re-defined scope of the project emerging from fieldwork - that of late-stage asylum advice and advice on refugee family reunion - and the research questions underlying the study. For that reason, many of the ethnographic interviews that I carried out have not been drawn upon in the thesis; they related to the early stages of an asylum claim rather than the very different contexts of a late-stage asylum matter or a refugee family reunion application that were the focus of the legal advice given at the advice service.

Throughout fieldwork, my own positioning and my multiple relevant identities impacted on the process in a number of different ways. I discuss this in more detail in section 4.4 below, after explaining the processes of data analysis in section 4.3.

### **4.3 Data analysis**

As explained above, interactional audio data featuring legal advice given at the advice service emerged through the processes of fieldwork and data collection as the primary focus of the study. Information from meeting observation notes, fieldwork notes, and relevant ethnographic interviews supported the analysis of these interactional audio data.

#### **4.3.1 Ethnographic data**

With ethnographic interviews, I drew primarily on interviews given by participants connected with the advice service (Julia; one of the NGO support workers; and one of the interpreters), given the relevance of their perspectives for analysis of the interactional data. I listened over to each interview (or read notes of interviews that were not audio recorded), and prepared written summaries of the topics discussed and key points emerging for each research question, in a loose form of deductive thematic analysis led by the interview questions and the research questions (Braun & Clarke, 2006). The information gained from this analysis informed my discourse analysis of the interactional data, by providing relevant background and perspectives and ‘opening up’ (Rampton, 2007, p. 596) the linguistic analysis to insights drawn from ethnography.

The experience of participant observation in the advice service, and the fieldwork notes and meeting observation notes that I made during this experience, also provided me with particular contextual awareness and knowledge in my analysis of specific lawyer-client communicative

interactions in the advice service. At the start of each session of analysis of audio data, I read over my fieldwork notes and observational notes from the relevant meeting, and I kept these to hand and drew on them both generally and specifically to interpret the audio data, as further detailed below.

#### **4.3.2 Interactional audio data**

##### **Selection of data for analysis**

The meeting recordings that I obtained at the advice service were divisible into three broad categories:

- (a) meetings dealing with late-stage asylum advice (six meetings, including one using Chinese);
- (b) meetings dealing with refugee family reunion advice as the only or a principal activity (nine meetings, including four using Arabic and one using Tigrinya); and
- (c) meetings in which bureaucracy related to refugee family reunion visa applications was the main activity (seven meetings, including four using Arabic).

The seven meetings in category (c) involved Julia using documents and information provided by the client to fill out online visa application forms on behalf of the client. In these meetings, small pieces of legal advice were sometimes sought and/or given, but since the main activity in these meetings was form-completion (an act of legal representation, rather than legal advice-giving, see Chapter One, section 1.5), I discounted them from the analysis. The data from the seven meetings in category (c) do not therefore form part of the thesis.

I have also not used one of the meetings in category (b) in this thesis. This is an interpreted meeting with an Eritrean client and a non-professional Tigrinya interpreter; I was not able, in the time available for data analysis, to recruit a suitable Tigrinya-speaking research assistant to transcribe and translate this meeting (I discuss below the criteria I set for recruiting research assistants). The thesis data set therefore comprises 14 meetings (from categories (a) and (b)).

##### **Transcription and translation processes**

Transcription allows the analyst to familiarise herself with the data. It is also a stage of analysis, and an important layer of transformation of the data (Bucholtz, 2000; Hammersley, 2010), involving a translation from the aural to the written form. It is not a neutral process, involving 'interpretive choices (i.e. what to transcribe) and representational ones (i.e. how to transcribe)' (Niemants, 2012, p. 165), that will always involve theory. A transcript can never be a full

representation of the audio recording (which itself is not a full representation of the interaction recorded). Instead, it must reproduce as faithfully as possible the features of talk that are relevant for the analysis being carried out. The transcriber exercises conscious selectivity (Ochs, 1979) to keep the transcript as simple (readable) as possible, whilst also incorporating whatever detail is needed for the analysis.

In transcription, choices must be made about (a) whether to transcribe phonetically (more faithful to the talk, displays features of pronunciation and accent related to dialect or language variety (Niemants, 2012)) or orthographically (more faithful to the target written form, thus more readable); (b) which transcription conventions to use or adapt; and (c) what level of detail to include (some transcripts contain just the linguistic and paralinguistic 'what is uttered'; other, more advanced transcripts also include the prosodic features of 'how it is uttered' (Niemants, 2012, p. 170)). I chose to transcribe orthographically for readability and speed, but also in order to protecting participant anonymity through masking accent or pronunciation features (possibilities for analysis are lost, but a compromise has to be made somewhere). I used an adapted form of the basic transcription conventions set out by Richards (2003, cited in Copland & Creese, 2015), supplementing these with common conventions used to represent prosodic features in conversation analysis (Sacks et al., 1974). Appendix K contains the transcription conventions used in this thesis; these suit my analytic purposes, in that they are capable of recording features of turn taking, interruptions, prosody, and paralinguistic signs. Following the approach recommended by Copland and Creese (2015), I first carried out a basic transcription representing largely linguistic and paralinguistic features only. In later microanalysis, I supplemented these if necessary with further detail in order to analyse relevant features of talk. In the data extracts in Chapters Five and Six, only the level of detail needed is represented.

The non-Roman scripts of the Arabic and Chinese languages in my data add another dimension to transcription. For example, the direction of script in Arabic is reversed (right-to-left) compared to English, complicating representation on the page. The question also arises of whether a transliteration of talk into the Roman alphabet (e.g., using the pinyin system for Chinese, or representing Arabic talk in the Roman script) is necessary; I did not transliterate data, as it was not necessary given how I worked with these data. Niemants (2012) mentions the need to cater for different linguistic systems when transcribing interpreting data, but does not offer any specific practical solutions. In order to inform my own decision making, I therefore searched for and reviewed examples of how others undertaking multilingual linguistic ethnography, investigating similar theoretical concepts, had approached multilingual transcription.

I found that approaches to transcribing multilingual data vary considerably; some authors, like Moyer (2013) and Tranekjær (Tranekjær, 2015) use a vertical layout in which the original utterance is placed in one line, with a translation into the language of the publication (usually English) added in the following line and identified as such with italics or another denotational symbol. Others, like Maryns (2006), use a tabular approach, with the original utterance placed in the left hand column and a translation provided against it on the same row in the right hand column. I find the approach taken by Maryns (2006) clearer, and it has the added advantage of being able to accommodate the bi-directional flow of text on the page for English/Arabic interactions. I adopted this tabular approach for multilingual transcripts.

I transcribed all of the English language data myself, anonymising confidential personal data (names, dates of birth, addresses and other potentially identifying information) in the process. I recruited two research assistants (RAs) to carry out transcription and translation of the Arabic and Chinese data respectively. I obtained some limited research funding, sufficient to recruit suitable assistants and pay for several of my audio recordings (including all multilingual meetings drawn on in this thesis) to be transcribed into Arabic or Chinese and translated into English. The funding did not extend to procuring support with analysis.

I recruited RAs based on three criteria. First, RAs should not be connected to any of the research participants in any way. Second, RAs should have, or be studying for, a higher level translation qualification, preferably in the legal translation field, and preferably have some experience of interpreting themselves. Third, RAs should have some familiarity with postgraduate study in the UK, sufficient to appreciate the ethics requirements and standard of practice needed for the work. I therefore used academic contacts and networks in my search, and recruited:

- a Mandarin Chinese-speaking RA from China, who was undertaking a Masters in translation studies in a UK university having studied legal and business translation at undergraduate level; and
- an Arabic-speaking RA from Palestine, with an MA in Applied Linguistics from a UK university, and who works as a professionally qualified Arabic-English legal translator and interpreter.

As a first step, I entered into confidentiality agreements with both RAs, requiring that they treat data confidentially and securely dispose of/delete data after completing assignments. Second, I edited each of the mp3 audio files containing relevant meeting interactions using Audacity to remove any confidential personal data from them (replacing any such data with a bleep sound); this was necessary on ethical grounds and to comply with UK data protection legislation. Third, I

used the University's secure large file transfer system to securely send the audio files and partially completed transcripts (containing the English parts of talk) of each meeting to the relevant RA. The RA then completed the transcripts by transcribing the Arabic or Chinese language parts of these meetings into the document, and translating them into English. Once the assignments were complete and returned to me, I reviewed them and raised any queries I had with the relevant RA – in a face to face meeting with the Chinese RA, and via email with the Arabic RA. In these exchanges I encouraged each RA to also raise and discuss any uncertainties or issues they had encountered with the work.

Translation, and transcription, involves choices about the representation of speakers. Copland and Creese observe that 'script choice can be a political and highly charged process' (Copland & Creese, 2015, p. 200), which can bring to light social contexts and language ideologies. Unless given detailed instructions and training, the involvement of RAs can take some control of this away, as was highlighted for me when I received back the first Arabic transcript. I realised on reviewing it together with the audio that the Arabic RA had transcribed client and interpreter speech into written Modern Standard Arabic, and not written forms of the spoken Arabic varieties that individuals were actually speaking. On querying this with her, the RA explained:

For the issue of standard or not, for me, listening to the Sudanese or any other Arabic dialect then writing them in standard language is easier. First, standard Arabic is better for us as translators. For all Arab countries, it is unified and easier to deal with. Second, some terms in non-standard Arabic, for example in Sudanese or Gazan dialect, are difficult to be written (transcribed) as their letters consist of many sounds combined together and no similar letters in standard Arabic equal them. Thus, I listen and then write in standard in order to make it easier and professional for translation. For example, the word (listen) in slang Sudanese is (أقوليك), which means (I will tell you). In fact, it does not mean that the speaker will tell the listener anything, but it is used to attract attention or calling. So, I used the word (اسمعني) in standard Arabic, which means listen to me in English. (email from Arabic RA, 16 July 2016)

The RA's reply is reflective of both the diglossia that exists in Arabic language communities (diglossia (Ferguson, 1959) is where two language varieties exist within the same speech community, each having a definite but non-overlapping role) and her own professional language ideologies. Diglossia in the Arabic-speaking world involves a standard, high-prestige written form of Arabic - Modern Standard Arabic - used across the Arab-speaking world (particularly in official

or formal contexts), co-existing with a wide range of geographically-based spoken varieties of Arabic, the forms of which can vary widely across different countries or geographical areas. A legal translator would be used to writing in Modern Standard Arabic only, and as her reply shows, this is the most pragmatic and useful approach to transcription in such a context.

The consequence for the data is that the Arabic transcriptions have also been through a process of translation, from the Sudanese, Iraqi or Libyan spoken variety captured in the audio to the Modern Standard Arabic captured in the transcript. Conversational features such as backchannelling, use of minimal acknowledgement tokens, etc. have also not been recorded in the transcripts, which represent a “tidied-up” version of the actual talk. After reflection, I took the decision not to take any steps to change the situation. I knew that I would be able to do little analysis myself on the Arabic data, and would be drawing mostly from the translations. Also, the transcripts were more intelligible to me in the form of Modern Standard Arabic, which is the variety I have been exposed to in language classes. The outcome serves as an apt reminder that a transcript is a transformed product that represents, rather than exactly reproduces, the original talk.

### **Implications of researching multilingually method**

My Arabic linguistic resources consist of a basic level of Modern Standard Arabic (around level A1-A2 in the Common European Framework of Reference for Languages), and with a little effort, being able to read the script. I have no resources in Chinese, although my previous study of Japanese means that I have a distant degree of familiarity with the script. The analysis carried out in this thesis is, therefore, based on the English translations provided by my RAs and the English language interactional data spoken by the English speaking participants. Due to this, only the English language data has been subject to a more detailed level of transcription. I draw on the data translated from Arabic and Chinese for linguistic meaning, but I have not attempted to transcribe or analyse prosodic features of Arabic or Chinese talk, except at a very basic level where features such as volume are evident to me from the audio data. Nor have I been able to look at overlaps and interruptions in the Arabic and Chinese talk. My inattention to these areas is not only due to lack of linguistic resources, but also lack of knowledge about the languacultural and discursive practices, and contextualization cues, with which each speaker is familiar in their ‘home’ cultural and linguistic environments.

Nevertheless, the focus of this study is not solely the process of interpreting, but rather multilingual and intercultural communication between members of a population of mobile people, and legal professionals, in the English-dominant institutional communicative environment



of the legal advice meeting. Interpreting can be a major part of this, but it is not the whole part of communication, and analysis of the English language and translated English data can still be highly informative if claims are carefully advanced.

### **Stages of analysis**

I employed a multi-stage analytic approach to the audio data, resembling in some ways the 'iterative process' of 'analytic activities' (Lefstein & Snell, 2011, pp. 45–6) undertaken by Lefstein and Snell in their genre analysis of a primary school literacy lesson. My process was modelled on that described by Linell (2010) (Chapter Three, section 3.3), supplemented by steps involving transcontextual analysis (Chapter Three, section 3.4) for some of the data. The process involved the following steps:

1. Listening over to each recording, taking notes on items of interest for the research questions. This is recommended by Copland and Creese (2015) as a sensitizing approach to the data and their contents before starting work on transcription. The process highlighted to me that there was a qualitative difference between the meetings in category (a) advising on asylum, and the meetings in category (b) advising on family reunion - there seemed to be more variation in interactional roles and activity types in the latter set of meetings than the former.
2. Making notes on the participants, main interactional roles and main activities within each meeting (recommended as an initial analytic step by Rampton, Harris and Small (2006)), to identify the main 'framing dimensions' (Linell, 2010, p. 43) demarcating the overall communicative activity type. For Linell, framing dimensions are '*situation definitions* in terms of (prototypical) purposes and tasks, activity roles, scenes, times and medium, specific activity language (Allwood, 2000) and in general, the role of language (central vs. subsidiary) within the overall activity' (p. 43). Ethnographic data were used here in addition to the interactional data (see Appendix L for an example).
3. Transcribing the English-language talk myself (see above).
4. For those meetings featuring Arabic or Chinese interaction, arranging for the transcription of those parts of discourse into Arabic or Chinese, and translation into English, by a research assistant (see above).
5. Annotation of the completed transcripts with any observational notes made about significant nonverbal communicative activities, and any significant points about the interaction recorded in fieldwork notes (see Appendix L).

6. Segmentation of transcripts into their component interactional phases, each phase being a linked 'sequence' (ten Have, 2007, p. 122) of turns at talk during which one main thing is being accomplished or one topic is being dealt with (see Appendix L).
7. Basic analysis of the communicative activity type (CAT) structure of each meeting (Linell, 2010), by classifying the phases of each meeting according to what kind of general activity was being accomplished within each phase (see Appendix L).
8. Detailed analysis of the CAT structure of each family reunion advice meeting within category (b), examining the internal structure of the phases comprising the legal advice CAT (how this CAT was divided into smaller communicative projects), and examining the discourse types (Sarangi, 2000) in use within each different CAT and communicative project, noting patterns and interesting departures from such patterns (see Chapter Five).
9. Transcontextual analysis of the transcripts from the late-stage asylum meetings in category (a), within which institutional documents and texts were drawn on to a great extent, identifying the range of different (con)texts brought into or drawn on within the interaction and how they are drawn upon, by whom and for what purpose, in an examination of textual trajectories appearing within the meeting (see Chapter Six).
10. Microanalysis (incorporating a more detailed level of transcription work where required) of selected passages and features of particular interest for the research questions in all meetings analysed, highlighted in the CAT analysis and/or the transcontextual analysis, drawing on the ethnographic data gathered (see Chapters Five and Six).

Further detail is provided below.

### **Activity type analysis - Chapter Five**

In order to analyse the communicative activity type structure of the data, I followed a process modelled on Linell's (2010) suggested approach to the analysis of communicative activity types (CATs). This approach is reflected in stages one to eight and stage 10 above. Linell's approach comprises three dimensions of analysis:

- First, both the interactional and associated ethnographic data for each meeting are reviewed to identify the 'framing dimensions' (Linell, 2010, p. 43) of the activity (stages one and two above).
- Second, the interactional data are analysed, looking at the 'internal interactional organisations and accomplishments' (Linell, 2010, p. 43) within the CAT (stages six, seven,

eight and 10 above). These comprise 'phase structure, core communicative projects, agenda, topics, turn organisation and feedback patterns, topical progression methods (e.g. question designs), dominance patterns, participant positionings, degree of (in)formality, and the role of artefacts' (p. 43). As such, this dimension incorporates analysis of the sequential structure of the activity, and the characteristic nature of language use within the activity, both elements of Levinson's (1979) analytical approach. Unlike Levinson, however, Linell argues that the analyst can expect to find variety and hybridity within CATs, perhaps through division into smaller phases or 'communicative projects' (Linell, 2010, p. 36), or through variation in the kind of language used – different 'discourse types' (Sarangi, 2000) - within different phases of an activity.

- Third, although this is actually done concurrently with the first two dimensions above, knowledge about the 'sociocultural ecology' (Linell, 2010, p. 43) of the activity, as it is accessible to the analyst through ethnographic research, is applied to the data to enrich the analysis (stages five, eight and 10 above). This dimension was of particular relevance for responding to the three research questions, focusing on how communication is achieved multilingually and interculturally, what use(s) of context is made in communication, and how the dynamics of control and agency of interaction are managed.

The same analysis was carried out on all 14 meetings from categories (a) and (b) within the thesis data set, up to and including stage seven. The primary communicative activity type (CAT) of 'legal advice-giving' was evident across all meetings in categories (a) and (b), but analysis also revealed a range of secondary (additional) activity types, of significance for the research questions, within the family reunion advice meeting data in category (b). The variety in activity types in the family reunion advice data led me to focus on this sub-set of data only for a detailed CAT analysis in stages eight and 10, drawing on the guiding concepts of CAT, communicative project (Linell, 2010) and discourse type (Sarangi, 2000). This process resulted in the family reunion advice meetings analysis presented in Chapter Five.

### **Intertextuality analysis - Chapter Six**

Since no great variation in communicative activity type was exhibited by the six late-stage asylum advice meetings in category (a) above, but institutional documents and texts were drawn on to a remarkable extent in these meetings, during the stage one analysis I decided to use transcontextual analysis to examine this sub-set more closely. This requires a close, detailed analysis of entire meetings, and it was not practicable to analyse all six meetings; two out of the six were therefore chosen for analysis, as explained in Chapter Six.

For these two meetings, I missed out stage eight and moved on to stages nine and 10, which I implemented concurrently. The transcontextual analysis was modelled on Rock's (2013) and Smith's (2005, 2006a) approaches to analysing intertextuality in institutional settings, and also influenced by Halldorsdottir's (2006) approach to analysis of a criminal lawyer-client interview (discussed in Chapter Three, section 3.4). In these stages, I reviewed the transcripts and audio recordings once more, identifying and listing out instances of recontextualization occurring within each meeting, identifying and microanalysing points of interest for the research questions. Sections 6.2 and 6.3 of Chapter Six comprise narrative reports of the analytic findings.

As a next step, and in order to represent and structure the variety of recontextualizations inherent within these data, I classified them into groups representing different types of communicative exchange, considering what sort of action was being done using what kind of resources. I identified the common characteristics of each group such as what kind of text was being recontextualized (regulatory text, other document, or oral stretch of discourse), whether that text was physically present in the meeting or not, how the text was used in the recontextualization and for what purpose, and considering also the variables of textual travel identified by Rock (2013) (see section 3.4 of Chapter Three) (Appendix M contains the full analysis). From this analysis and classification, I drew out and diagrammatized the structure which emerged for the intertextual hierarchy operating within these late stage asylum meetings, illustrating how these recontextualizations operate within the regulatory frames of the asylum decision process and immigration legal advice. Section 6.4 of Chapter Six reports on this further stage of analysis. Throughout, I considered the variables of intertextuality operating in the context of late-stage asylum advice and their relationship to each other. Using the subsidiary research questions as my focus, I looked at how these influence what communicative resources are made use of in the advice meeting interactions, what contexts are made relevant to the interactions in which ways, and the dynamics of control, agency and power within them.

#### **4.4 Researcher positioning and associated limitations**

As indicated in Chapter One (section 1.4), my own identities, experiences, beliefs and opinions have shaped this research and my approach to it in a range of ways. Part of the social constructionist paradigm involves exercising reflexivity in research, retaining a continual consciousness that the product of research is a social construction that has been influenced by the subjectivities of everyone involved (Blommaert & Jie, 2010, pp. 65–6). In relation to subjectivity, Blommaert and Jie (2010) comment: 'it is better to be aware of it and to question what you have seen, heard and understood from within that context, than to pretend that this context wasn't there' (p. 66).

#### **4.4.1 Conceptualization of the research**

Firstly, and before turning to fieldwork, the fact that the conceptualization of the research is influenced by my own life experiences needs acknowledgement. My experiences as a qualified (now non-practising) solicitor of England and Wales, and a longstanding student of language and culture (see Chapter One, footnotes 4 and 5) mean that I bring a meta-awareness of language, processes of intercultural communication and culture, to my consideration of legal practice and legal-lay communication. As explained and explored in Chapter Two (section 2.1), I view lawyers as inherent intercultural communicators across the legal/lay boundary. I share this view with others who have experience of legal practice (e.g., Ahmad, 2007; Bryant, 2001; Carlson, 2013; Cunningham, 1992), and one of my motivations for undertaking this research is to explore this conceptualization further.

#### **4.4.2 Social, and situated, identities in the research**

In relation to carrying out the research, as well as my externally perceivable social identity, I have found that four primary identities of mine - the student-researcher, the volunteer, the language learner, and the lawyer, – have all been relevant situated identities (Zimmerman, 1998) in this research. Becoming relevant at different times, they have sometimes impacted on each other in an intersectional manner, bringing different affordances but also sometimes constituting limitations for the research. Coffey urges that researchers should ‘acknowledge and critically (though not necessarily negatively) engage with the range of possibilities of position, place and identity’ (Coffey, 1999, p. 36) inherent in ethnographic fieldwork activities, and I shall attempt such an engagement here.

To begin with, the social identity that I immediately exhibit to others (at least in the UK) is that of a white, English-speaking, socially secure, educated adult woman operating within my own cultural and linguistic environment. Hammersley and Atkinson (2007) note that these ‘personal characteristics’ or ‘ascribed characteristics...may shape relationships with gatekeepers, sponsors, and people under study in important ways’ (p. 73) and that researchers need to be aware of the impact that this may have on their research activities. In my case, whilst my own social identity mirrored those of many of the lawyer participants I encountered, and to a lesser extent interpreter participants, I was conscious that it contrasted sharply with the socio-economically precarious lives and linguistically and socially marginalized status of many asylum seekers and refugees in the UK (Cuthill et al., 2013; Griffiths, 2014). The impact of power differentials, including linguistic ones, should be considered when conducting research with individuals from these populations (Perry, 2011; Pittaway, Bartolomei, & Hugman, 2010), and I endeavoured to be

aware of these differences and to find ethically congruent ways to make connections and find points of commonality with those whom I met. My engagement with the English group prior to fieldwork (see section 4.1) was one way in which I tried to raise my own knowledge of, and awareness about, these dynamics. Bringing my other, situated, identities into my interactions with individuals (as discussed below) was another way of addressing this.

All of my situated identities of student-researcher, volunteer, language learner, and lawyer, came into my positioning within sites and relationships during fieldwork. Naturally, my student-researcher identity was present and foregrounded throughout fieldwork and data analysis. My motivations for engaging in the research included undergoing experiential learning through completing a piece of doctoral research; this, together with my affiliation to a well-known university, were factors that I made known to research participants in access negotiations and which may have influenced individuals' decisions to support, or participate in, my research. This identity also came into social interactions with participants in my fieldwork sites from time to time when I was asked about my studies, my research, and my subsequent career plans. Some of the clients I spoke to were also students in other institutions either here or in their home countries, and it was a point of common ground between us in conversation, an example of 'building trust' (Hammersley & Atkinson, 2007, p. 70) with participants through identifying and making small talk around neutral points of shared interest. On a practical level, my status as a student also facilitated my acquisition of a volunteer identity. First, both organisations that I volunteered within were used to accepting student volunteers, and understanding of the motivations of students to gain experience and develop skills through volunteering; and second, I could flexibly organise my time to respond to both the needs of each organisation and the research opportunities that opened up. Having acquired a volunteer identity, I strove to perform tasks and responsibilities allocated to me as well as I could as a means of thanking the organisation and showing respect for their work.

My identity as a language learner also played a part in establishing rapport with many of my participants. For some years I have been a recreational learner of Arabic and during 2014 – 2016 I was attending beginner, then elementary level Arabic evening classes. I discovered through conversation at the advice service that one staff member, and an NGO support worker who regularly attended meetings with clients (Steve – a pseudonym), were also Arabic language learners at about the same level as myself. The three of us had regular conversations, sometimes including clients and interpreters, about Arabic learning and the content of our classes, joking and empathising about the challenges of learning a new language. Sharing my language-learner identity served as an ice-breaker with some individuals, enabling conversation between us to flow

and sometimes widen out to other topics. When learning Arabic came up in conversation with multilingual clients, I also consciously used this as a way of trying to convey to clients that I know what it feels like to struggle with learning and using a new language, and to make links with my research focus. Whilst I do not pretend or claim that my own wider experiences in any way equate to the experiences of asylum seekers and refugees in the UK, I did feel that many of those whom I discussed language learning with recognised commonalities between our respective experiences of it. Language learning was a helpful topic of social conversation with those client participants with whom it came up in conversation, with the two professional Arabic interpreters who attended the service several times during my fieldwork, and with Steve the NGO support worker; it may also have positively reflected on my credibility as a researcher interested in language and communication in legal advice.

The most prominent, but also in some ways most troublesome, aspect of my identity for this study is my own legal training and professional background as a lawyer. Many linguistic ethnographers carry out research in their former professional working environments (Rampton, 2007), and the complexities and affordances of this insider positioning are acknowledged within the literature (see e.g., Denzin & Lincoln, 2011; Shaw et al., 2015). My own positioning in the research context of this study was as a semi-insider. On one hand, I have a good knowledge of the structures of the law in England and Wales and their operation; knowledge of legal ethics and legal research; personal experience of general legal training; and experience of working as a lawyer including having engaged in a range of lawyer-client relationships from the lawyer perspective, albeit in a very different context to that featured in this study. On the other hand, I have no experience, training or qualifications in practising immigration and asylum law and am not authorised to give legal advice on asylum and immigration matters (see Chapter One, footnote 2).

Agar (2011) points out that ethnography can be seen as second languaculture learning and translation. The ethnographer, in a way similar to the translator, is engaged in a task of learning the language and culture (for Agar, the languaculture) of the research site, and “translating” this into the language and culture of his or her professional or public audience. As a semi-insider researcher, in that I am already positioned within the legal culture, but not within the specific culture of asylum and refugee law, I perhaps faced fewer challenges than other researchers might in this respect as I already had some knowledge. For example, I knew how to locate and research relevant legislation, case law and guidance on relevant topics before and during fieldwork; I was familiar with the frameworks of professional ethics, client relationship management, and practice management that I encountered at the advice service; and I had no difficulty understanding the legal language and terminology I encountered (or at least, I knew when I needed to go away and

look up the meaning of a particular legal term). This “insider knowledge” certainly offered affordances for negotiating relationships with gatekeeper participants such as Julia, managing the practicalities of the research during fieldwork, and also for analysis and interpretation of the data. However, this lawyer identity and perspective, and also my identity as an English speaker, will have necessarily resulted in the aspects of meetings visible to the lawyer being also more visible to me during analysis, and the client’s and interpreter’s experiences of meetings being less visible. The findings should be read with this in mind.

I avoided being perceived as a lawyer by clients at the advice service and the NGO. Copland (2015) points out that being positioned back into a former role is a risk for researchers who are researching a group that they themselves are a member of; her personal experience of doing LE research in her former workplace was that she had to work hard to actively avoid being positioned back into her former (teacher trainer) role by others. In my case, I avoided telling client participants that I had legal training and qualifications unless this specifically came up in conversation (when I would say that I used to work as a lawyer, but did not any more). This was partly so that I could focus on my intended role of researcher, rather than being drawn in to assisting with legal matters; but it was also in order not to raise expectations that I could advise clients on their matter myself<sup>7</sup>. I was never deliberately misleading, but neither did I actively bring this aspect of my identity into my interactions with everyone in the research sites I worked within; this was an ethical call I felt I had to make in order to responsibly and ethically manage relationships and professional obligations.

Some argue that the bringing out, or the hiding, of certain aspects of identity during fieldwork in order to influence the fieldwork process is unethical, an instance of ‘impression management’ (Hammersley & Atkinson, 2007, pp. 66–73) being deliberately used to influence field relations. Hammersley and Atkinson (2007) discuss the complex ethical and emotional debates that arise among researchers when accusations of artifice are levelled at researchers for ‘managing’ their identities in research situations. I, however, agree with Coffey (1999) that such accusations of artifice ignore the social reality that we all perform different identities to and with different people in our daily lives (Goffman, 1959), and that this is a natural part of social relations that we cannot and should not avoid when we engage with others in fieldwork. In any form of ethnographic work, ‘fieldwork relies upon the interactions, relations and situatedness of the researcher and the researched’ (Coffey, 1999, p. 7), and my experience was that different aspects

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<sup>7</sup> As a person without the necessary training and authorisation, it would be a criminal offence for me to give immigration legal advice, and doing so would be a professional disciplinary issue for both myself and the organisations that I was involved with.



of my identity came into play at different times and with different individuals to open up opportunities and manage relationships during the research.

In contrast to these affordances, there were also difficulties: Coffey points out that researchers' identities can be considerably challenged during their experiences of ethnographic fieldwork, and I certainly felt a conflict between the researcher identity, and the lawyer and volunteer identities, within myself at times during this research. My lawyer identity undoubtedly had an influence on my own conduct in the research site as volunteer and researcher. I was mindful of Julia's duties to her clients during and around meetings, and of the expectations and needs of the clients who attended the advice service. I took the personal ethical stance throughout that the normal work of the advice service – that is, the business of supporting and advising the client, and attending to the client's legal and non-legal concerns – took precedence over my own research activities.

#### **4.4.3 Limitations connected with researcher positionality**

This ethical stance in the research site had an impact on data collection in three noticeable ways. Firstly, I had a dual role in advice meetings: of volunteer taking notes for the advice service, which needed to record the key points discussed and key advice given, and also of researcher taking observational notes for my own research. This was tricky to balance, and I prioritised the advice service's notes over my own research notes. As a result, the observational notes I obtained are not as detailed as I would have liked with regard to non-verbal communication. I did my best to note aspects of non-verbal communication that I remarked as significant, but they were a poor replacement for a video recording of interaction (which I considered too intrusive for this setting and so did not suggest or request), and the data that I gathered therefore only peripherally address the important dimension of non-verbal communication in legal advice meetings.

Second, I found it difficult to procure copies of documents that were discussed in advice meetings. The Participant Information Form stated that I may ask for copies of documents discussed in the meeting, but that I would only take copies with client and lawyer consent. I did not routinely ask to obtain copies of documents however, because of a concern not to interrupt the flow of advice and not to stress or distract the client any more than necessary. I did obtain a few copy documents where the opportunity arose to ask for consent at the end of the meeting, but these were fewer in number than I had hoped or intended.

Third, I found it difficult (as already noted in section 4.2.4 above) to find a suitable moment to ask client participants to agree to attend focus group or individual interviews. Although this aspect of the research was mentioned at the start of each meeting during discussion of the participant information and request for consent, it felt inappropriate to raise it again until the end of the

meeting, at which point I usually felt that clients had too much important advice and information about their legal matter to consider and decided that it would be wrong of me to raise the request. Consequently, I did not interview any clients whose advice meetings I attended.

Some limitations of the data collection thus arose from conflicts that I felt arose between my different situated identities. In these conflicts, the lawyer perspective (that of prioritising the client's needs and the work of Julia, the legal professional involved) invariably took precedence over other perspectives. On subsequent reflection, I realise that this has a close connection to my own professional training and identity.

## **4.5 Context of the study**

In this final section 4.5, I provide further information about the advice service, the research site featuring in this thesis, including its physical and symbolic spaces, and approaches to communication between clients and legal professionals within it, through an ethnographic description. I begin in section 4.5.1 by describing and connecting the physical and symbolic spaces of the advice service, before in section 4.5.2 describing communication in the gatekeeping procedures that clients must pass through in the public-facing area of the advice service to procure a meeting appointment. Finally, in section 4.5.3 I introduce the interactional environment within legal advice meetings at the advice service, which will be the focus of subsequent chapters.

### **4.5.1 The advice service**

This section describes the advice service as a physical and metaphorical space. Physically, the office comprises a small suite of rooms, accessed through a single entrance door, within an office building. The door is open during office hours, and leads into the reception, a well-lit room containing a reception desk with leaflets and information brochures set out in piles for clients to take, plants, a water cooler and cups, a photocopier behind a screen, and some easy chairs arranged in a waiting area. A volunteer sits on reception to greet clients and take calls, and a radio plays quiet music and chat in the background. Clients and other visitors come in and out to attend appointments or with general enquiries. Next to the reception is an office, the door to which is propped open so that the occupying staff can assist on reception whenever needed. There are also meeting rooms, one of which is pictured in Figure 4.2 below; these are private spaces accessible by appointment only and used for client meetings.



**Figure 4.2 – A meeting room at the advice service**

The remainder of the office comprises other private staff offices, and additional meeting rooms, a kitchen, and lavatories are situated close by elsewhere in the building.

Taking a view of the advice service as a public-facing institution, my experiences at the service commenced with participation in the interactional ‘front region’ (Goffman, 1959, p. 110) of the reception area, where clients initially encounter the advice service and experience gatekeeping interactions (see section 4.5.2). They then shifted into the more regulated semi-private spaces of the meeting rooms where advice meetings with admitted clients were held (see section 4.5.3), and the private offices where clients were not permitted entry (the true ‘backstage’ (p. 114) region of the advice service). I remarked the reception-office split in public and private environments in my fieldwork notes on the first day that I spent in the more private staff offices:

Sitting in there you feel quite removed from the public part of the office I have grown used to. It’s very private, the desks are partitioned off so you really have your own space and can focus quite easily. It reinforces the feeling I have of there being two different worlds here, the public facing one (where I’ve been sitting to date) and the private one, where lawyers focus and get on with longer term case work.

(Fieldwork notes, 1 Feb 2016)

I also noted how much this reminded me of my own experience in professional legal practice, where a similar split between public and private space existed. The distinction is, however, less one of performers enacting different roles in these spaces (as described by Goffman, 1959), and

more one of the type of work, or communicative activity, being different across different spaces. This is explored in sections 4.5.2 and 4.5.3 below.

#### **4.5.2 Making appointments – public space interaction**

Through staffing the reception desk, the different channels through which clients find the advice service soon became apparent to me. Telephone calls were a major source of first contact, and answering them involved asking the caller a series of questions about their legal issue and their personal circumstances to establish whether or not they were eligible for, and could be helped by, the advice service's support. A range of aide-memoire notes were discreetly tucked away behind the reception desk, out of view of clients but accessible to the reception staff, to help ensure that the right questions were asked. Name, address, date of birth, nationality, immigration status, and nature of advice needed were required from asylum and refugee clients; for other legal issues, the type of information needed varied. It was sometimes challenging to procure all this by telephone. Two staff members told me on my first day that the hardest thing was learning how to understand people over the phone, how to get them to spell their names out so that they can be entered into the appointment and case management system correctly (personal details are used to check for conflicts of interest in accordance with professional obligations before taking on a new client, and accuracy is therefore important). Some days later, I noted how some individuals had clearly developed strategies to cope with this information disclosure when interacting with institutions:

It's evident when someone is very used to this situation, I had somebody call today who had learned to spell their name and address using the Alpha-Bravo-Charlie alphabet system and give their date of birth in numbers. (Fieldwork notes, 5 Nov 2015)

Many individuals relied on friends to interpret for them by telephone, and I recorded another instance where I took a call from an Arabic-speaking client and his friend, who had enough English to translate for him when I asked questions.

It took quite some time for me to get the client's phone number from him ... it was heartening for me to be able to overhear the client telling his friend his phone number in Arabic, and then to have his friend translate it for me. A couple of the numbers were the wrong way round to start with – I think the friend was having difficulty because the number wasn't written down. (Fieldwork notes, 19 Nov 2015)

Regularly, people brought issues to the advice service which staff there could not advise on, and those individual were signposted to other local services where help was available. Where it was established that the advice service could help with the client's issue, key personal and case details were recorded on a Client Record Form and filed until the substantive advice contact with the client (usually a meeting). The Client Record Form serves the dual purpose of collecting key information (including whether an interpreter is needed, and in which language) that the advisor will draw on in the meeting with the client, and the institutional gatekeeping function of checking and recording that the client satisfies the advice service's eligibility criteria for free advice. After the advice meeting, the Client Record Form feeds into the service's client records.

In other instances, individuals came to the office in person to seek an appointment, or to ask about progress on their matters if they were existing clients. For new clients, turning up at the office was in many cases the most efficient way to communicate, but existing clients were discouraged from coming without an appointment - no drop-in advice service operated at the office. In face-to-face interactions at reception, English would be used as a primary language. Where clients had no English, they would often phone friends, or bring friends along, to interpret for them. Along with other staff, I regularly adopted the strategy of asking individuals to show me their identity document (Asylum Registration Card or Biometric Residence Permit) as a means of obtaining some of the necessary information.

Other linguistic resources of the staff or of other individuals present in the reception area were occasionally drawn on where face-to-face communication in English was challenging. One of the staff members was learning Arabic, and I noted a mixed-language exchange between him and an (existing) Arabic-speaking family reunion client who had come in asking to see Julia. Through code-switching between Arabic and English, the staff member told the client that he could not see Julia that day, and that he needed to speak to Julia to find out the position with the client's case and would telephone the client tomorrow. I remarked how the staff member's Arabic was 'more functional than mine' and that 'he could say things like "talk to solicitor" and "tomorrow"' in Arabic (Fieldwork notes, 10 Dec 2015). This language mixing, combined with the use of documentation to point at phone numbers, gestures and smiles, seemed to result in the message being understood by the client. It exemplifies 'translingual practice' (Canagarajah, 2013), or communicative practice drawing on common underlying processes and orientations to communication, within which 'people shuttle in and out of languages to borrow resources from different communities to communicate meaningfully at the contact zone through strategic communicative practices' (Canagarajah, 2014, p. 79), which was regularly drawn on by this individual in reception duties. Occasionally, individuals (interpreters, other waiting clients) with

linguistic resources matching those of the enquirer would be present in the reception waiting area, and would offer their assistance to interpret. Whilst not ideal from a client confidentiality perspective, this was seen as a pragmatic solution by all concerned, sometimes being the only way in which the person's query could be dealt with. After dealing with one of these occurrences, I wrote about my embarrassment that the client had had to reveal personal details about his situation to a stranger, but remarked that 'I think probably I was a lot more perturbed by this than any of the others in the room – possibly for them, it is a fairly normal occurrence.' (Fieldwork notes, 3 Dec 2015).

Finally, it was not unusual for intermediaries, such as staff at other public-facing services, NGO support workers, or friends, to make appointments or enquiries on behalf of clients. This needed to be done with the client's permission if any personal information was transferred; sometimes both client and intermediary spoke on the phone to establish this or both came in person. I spoke regularly in person and on the phone with one particular support worker (Steve, who sometimes accompanied clients to advice meetings and who features in some of the interactions in Chapter Five) and remarked in my fieldwork notes how I felt that a positive relationship was developing with him as a result of our shared interest in Arabic language learning (Fieldwork notes, 3 February 2016, also discussed in section 4.4 above).

Whilst occupying the reception role was an ideal way to learn about how the advice service operates, I felt that the work going on in the rest of the service was very closed to me because of being always situated in the physical space of the reception area. I remarked a link between the organization of space, and social interaction, noting the lack of opportunities I had to interact with senior staff members, including Julia, who occupied the private offices:

I just don't spend any time talking with them during the day, there is not even a coffee point/galley where people gather socially and they seem to be so busy, they don't really interact socially with the rest of the office hardly at all. Or at least, not when I'm around – maybe I need to get to the office earlier in the morning. We see them at the printer when they're printing things off, but they are in the middle of meetings usually, or in the middle of case work. (Fieldwork notes, 7 January 2016)

This view changed as time went on, and my role and physical location in the office shifted. When I moved role after three months from general volunteer to shadowing Julia, I began to spend more time in the private spaces of the advice service, its offices and meeting rooms. Being in these spaces, used by the solicitors and paralegals for advice-giving and case work, unlocked a different perspective. I was sat close to Julia more often and saw different sides to the relationships -

conversations took place daily in the private offices, and staff members regularly met with each other for planning, supervision, or other purposes. That my change in role involved a change in my physical location in the office illustrates how deeply the various activities of the advice service are connected to space. Confidential client advice and case work must take place somewhere private, and had I only been able to experience the public-facing aspects of the advice service, I would have gained an incomplete picture of the service's work.

#### **4.5.3 Within appointments – private space interaction**

Apart from brief outline advice given through the telephone advice line service (data about which I did not collect, since this service was generally offered on days when I was not present), legal advice is given in a private, face-to-face meeting with an advisor arranged in advance. The nature of communication within these meetings is the focus of Chapters Five and Six; in this section 4.5.3, I draw on my initial interview with Julia to report her perspectives on communication with clients in the advice-giving forum.

Julia described how clients had very different levels of linguistic resources, with some clients possessing advanced resources in their own language and also English due to learning English as an L2 in their home country, but others having had no formal education at all and very limited literacy: 'there's a whole list of different scenarios which makes pinning it down a bit difficult' (transcript of interview, 23 October 2015) (see also section 4.2.1). Julia, like all other advisors at the service, runs her advice meetings in English (she has some French linguistic resources, but not sufficient for advice-giving), and commented that 'the more experience you have, the better you are at dealing with people who have that language barrier.' Julia described how with clients with fewer English resources, she uses documents for information gathering, 'you can ask to see their papers and read from that and understand from that what is happening'. This is observable in the interactional data in Chapters Five and Six. Julia also mentioned that body language played a part in communication and that she was usually very aware of this, particularly where interpreters are involved.

The use of interpreters, Julia explained, forms a large part of the advice service's strategy for ensuring successful communication with non-English speaking clients, but it was difficult to fund professional (i.e., trained and remunerated, see below) interpreters in every case: 'for us as a not for profit, when it's not funded it's very difficult to do that'. Julia commented that professional interpreters are used 'sparingly', but are brought in and funded by the advice service (usually through local interpreting agencies) whenever accuracy is crucial, such as for advice on the contents of a refusal letter or for preparing key documentation such as a statement. Often,

however, clients are asked to bring a friend who speaks good English if they need interpreting for other matters or for an initial meeting. Although Julia acknowledged the need to be vigilant to the dynamics of interaction between client and any non-professional interpreter, and to stop proceedings if she feels that the arrangements are not working, Julia observed that this arrangement usually worked satisfactorily because of the interpreter's own prior experience with the asylum system. She explained, 'normally the person they come with has already been through the system and kind of understands and is you know doing them a favour ... there's quite a lot of that in the communities out there, that whole issue of pay it forward.' Julia feels that the contextual awareness of these non-professionals makes a large contribution to the success of such arrangements.

Julia reported that she has not had any formal training on working with interpreters, and has picked up what she knows from working with them over her career. Although there is no legal requirement for interpreters working in legal advice contexts in the UK to have any qualifications, the advice service uses an interpreting agency which only employs interpreters if they have a Level 3 Certificate or higher (Appendix D provides a summary of the public service interpreting training and qualification framework in the UK). Consequently, where I use the term "professional interpreter" in this thesis, I mean an individual who is normally paid for their services and who also has at least a Level 3 Certificate in Interpreting qualification.

According to Julia, however, a key factor in successfully advising asylum and refugee clients is time, and being prepared and able to spend extra time with clients who are more vulnerable. Julia explained that for her, one benefit of working in the not-for-profit sector is that time can be allocated to clients on the basis of their support needs rather than the financial drivers of case management, and that this really is important with vulnerable clients, because of the need to establish a relationship of trust and confidence with them. There is a need to be 'a bit more sensitive, and having a bit more open approach to how things are dealt with, that seems to work,' she said. Julia explained:

[With] vulnerable clients ... it takes as long as it takes, and I think when a client understands that, not necessarily that they have your undivided attention for unlimited amount of hours, but I think once they understand that you are actually listening to them and there's no pressure on them to say everything all in one go, and you take time over it then it makes them feel more comfortable, and often that has led to more [information] and more detailed disclosure, which from an evidence point of view is much more useful. (transcript of interview, 23 October 2015)



Julia also discussed the importance of honesty with clients, whose situations are often such that there are no legal avenues they can pursue:

The human reaction is to reassure and to say everything's going to be okay, but I think actually that's quite damaging sometimes, when actually what, they may not want to hear it but what they should be hearing is look, realistically, there isn't a case here. (transcript of interview, 23 October 2015)

Julia emphasised that for such clients, her priority is on working out what the client's options are, faced with their circumstances, and advising them honestly about this so that they are aware of their legal position and can take realistic decisions. Sometimes this involves conversations about the possibility of voluntary return to a client's country of origin, which Julia described as 'the hardest conversation I ever have with clients' (transcript of interview, 23 October 2015). A meeting which ended in one such conversation features in Chapter Six.

### **Chapter Summary**

In this Chapter Four, I have set out the methods followed in the study, outlining the research process that I followed from planning through to fieldwork, data collection and analysis. I have paid particular attention to ethical aspects of the study and to the strategies employed to address the challenges of researching multilingually in the research. I have also included a discussion of researcher positionality and the impact that I feel my various identities have had on the research. In the final section I end with an ethnographic description of the context of the study, the research site within which data collection took place.

This chapter serves to contextualize the following Chapters, in which I analyse interactional audio data collected within refugee and asylum legal advice meetings at the advice service, examining firstly how communication is discursively structured at the meso-level (Chapter Five), and secondly how the macro-level institutional regulatory frame impacts on communication at the micro-level (Chapter Six).

## **Chapter Five: The work of reuniting families – legal advice-giving in refugee family reunion cases**

Structured communication is important in professional settings where interactions have a clear overarching purpose, as has been explored in Chapters Two and Three. Legal advice meetings are no exception, and in monolingual settings exhibit a clear discursive structure (Gibbons, 2003, drawing on Körner, 1992). Student lawyers in the UK are trained how to run a legal advice meeting in a structured way; however, such training seldom focuses on the particularities of intercultural and multilingual communication (Sherr, 1986a), and little research explores what happens in practice. The construct of activity type is often applied to institutional and professional communication (see Chapter Three, section 3.3) as a meso-level analytic tool to investigate patterns of interactional control and use of different communicative resources. In this first findings chapter, I use the analytic construct of communicative activity type or “CAT” (Linell, 2010) to explore the primary research question of how communication takes place interculturally and multilingually among participants in an asylum and refugee legal advice meeting setting.

I analyse data collected within advice meetings between Julia and refugee clients seeking advice about refugee family reunion procedures. In this sub-set of data, clients either need advice about how to make a first application for entry clearance visas for their family members, or they have been unsuccessful in a first application and need advice on what to do next (see Appendix A for a summary of the legal process). Across the data set, the advice interactions follow a similar general pattern, albeit with variation across meetings and within each individual meeting. In this Chapter Five, I investigate this pattern, a manifestation of a CAT in use in legal advice interaction, looking at what communicative resources are in use (subsidiary RQ1.1); what contexts are relevant to the interactions in the meetings and in what ways (subsidiary RQ1.2); and what dynamics of control and agency are present in the meeting with what effects (subsidiary RQ1.3).

Section 5.1 presents the data analysed in this chapter, and describes the initial outline of findings regarding the communicative activity types identified in the family reunion legal advice meetings. In section 5.2, I set out the defining features of the main activity type of legal advice-giving evident in these interactions, and discuss relevant features of the data which reveal aspects of the communicative resources used, the contexts which are relevant, and the dynamics of interactional control within legal advice activity in these meetings. Then, in section 5.3, I consider what other activities are going on in the meetings observed, and examine the functions that these “additional activity types” have in the interactions and their significance for the communication in these meetings overall. In section 5.4, I discuss these findings from the perspective of each

subsidiary research question, before in section 5.5 presenting my conclusions about how structured intercultural and multilingual communication takes place in the refugee family reunion advice meetings observed.

## **5.1 The data, and initial findings**

### **5.1.1 The data**

The data reviewed in this chapter, summarized in Table 5.1 below, consist of eight refugee family reunion advice meetings with six different clients, each lasting on average 44 minutes (the shortest meeting was 19 minutes, and the longest 77 minutes). Four of these were English language interactions, in which clients used English as an L2 to interact directly with Julia, and the main purpose of the clients was to seek advice on a family reunion matter. The remaining four meetings were professionally interpreted interactions, featuring two different professional Arabic interpreters (both with Level 3 community interpreting qualifications), and three of them (Meetings 1, 3 and 4) involving the same client, Khalid. Whilst the follow-up Meetings 3 and 4 were primarily arranged to prepare and finalise a witness statement to support fresh visa applications for some of Khalid's family members, they also included the giving of legal advice about family reunion as a key activity, and thus have been included in the thesis data set. In all meetings except one, Julia delivered the legal advice sought by the client. The unsuccessful meeting (Meeting 5) was terminated early, to be rearranged with an interpreter, because it became clear early on that the advice needed was complex, no interpreter was present, and there were insufficient shared linguistic resources for the client to be properly advised.

**Table 5.1 – interactional data, refugee family reunion advice meetings**

Meeting	Client (pseudonyms used)	Language(s)	Duration	Main purpose
Meeting 1	Khalid male, Sudanese	English Arabic (Int A)	73 mins.	Advice on options after a refusal decision
Meeting 2	Ahmed male, Sudanese	English Arabic (Int A)	28 mins.	Advice on a first application
Meeting 3	Khalid male, Sudanese	English Arabic (Int B)	77 mins.	Taking a witness statement from client
Meeting 4	Khalid male, Sudanese	English Arabic (Int B)	32 mins.	Checking and finalising the witness statement
Meeting 5	Jamal male, Sudanese	English	19 mins.	Advice on a first application
Meeting 6	Aamina female, Somali	English	29 mins.	Advice on options after a refusal decision
Meeting 7	Ismail male, Somali	English	37 mins.	Advice on a first application
Meeting 8	Mebratu male, Eritrean	English	40 mins.	Advice on options after a refusal decision

The methods used to analyse these data are described in section 4.3 of Chapter Four.

### **5.1.2 Initial outline of communicative activity type findings**

An outline summary of the communicative activity type findings is at Table 5.2 below. The first and central CAT is legal advice-giving (a prerequisite for inclusion in the data corpus for this thesis). This CAT is discussed in section 5.2 below. I also identified seven additional CATs, which could be grouped into professional task-related activities and interpersonal relations-related activities (see also Figure 5.5). These activities are defined and discussed in section 5.3 below.

The grey shading in respect of Meetings 2 and 8 denotes that the client was a new client, meeting Julia for the first time; other clients had met Julia before, sometimes more than once. Although an activity type of ‘small talk’ has been included in the findings, none of these phases of interaction involved Julia: without exception, the small talk took place when she was out of the room. If the activity type of ‘small talk’ is disregarded, there are three meetings (Meetings 2 with Ahmed, 6 with Aamina and 8 with Mebratu) in which the only activity engaged in by lawyer and client was legal advice-giving and receiving. In the other five meetings, lawyer and client engaged in more than one activity.

**Table 5.2 – Communicative activity type analysis findings outline summary**

Meeting	Client (pseudonyms used)	Language(s)	Duration	Main purpose	Legal advice	COMMUNICATIVE ACTIVITY TYPE						
						Professional task related			Interpersonal relations related			
						Form filling	Witness statement	Advice on language	Stories about family reunion	Parenthood experiences	Work / personal life updates	Small talk (lawyer not involved)
Meeting 1	Khalid male, Sudanese	English Arabic (Int A)	73 mins.	Advice on options after a refusal decision	✓				✓			✓
Meeting 2	Ahmed male, Sudanese	English Arabic (Int A)	28 mins.	Advice on a first application	✓							
Meeting 3	Khalid male, Sudanese	English Arabic (Int B)	77 mins.	Taking a witness statement from client	✓		✓			✓		
Meeting 4	Khalid male, Sudanese	English Arabic (Int B)	32 mins.	Checking and finalising the witness statement	✓		✓	✓				✓
Meeting 5	Jamal male, Sudanese	English	19 mins.	Advice on a first application	✓	✓						✓
Meeting 6	Aamina female, Somali	English	29 mins.	Advice on options after a refusal decision	✓							✓
Meeting 7	Ismail male, Somali	English	37 mins.	Advice on a first application	✓						✓	
Meeting 8	Mebratu male, Eritrean	English	40 mins.	Advice on options after a refusal decision	✓							✓

The following section 5.2 reports on the CAT analysis of the main CAT of ‘legal advice-giving’ as manifest in my data, to investigate the discursive structure of these interactions. The aim was to explore this structure in detail, and see whether differences emerged between these intercultural and multilingual advice meetings and the activity type structures described in the literature on legal advice communication (Körner, 1992, cited in Gibbons, 2003; Sherr, 1986a).

## **5.2 Legal advice-giving as an activity type in refugee family reunion advice meetings**

In this section 5.2, I set out the defining features evident from the data analysis of the main activity type of legal advice-giving in the family reunion advice interactions. I first describe the ‘framing dimensions’ (Linell, 2010, p. 43) structuring the interactions in section 5.2.1. I then in section 5.2.2 present the sequential ‘phase structure’ (Linell, 2010, p. 43) of the legal advice activity that the meetings in the data set display. Using examples from the data which illustrate these features, I examine the ‘discourse types’ (Sarangi, 2000, p. 1) in each of these phases of advice. Throughout this analysis, I am not only considering what discursive structure exists in the legal advice meetings observed, and how this supports or prevents successful communication, but also drawing out micro-analytic features of the interactions to explore the subsidiary research questions. Specifically, what linguistic, languacultural and discursive resources, and means of communication, do the parties use in multilingual and intercultural advice-giving interactions (RQ1.1); what contexts are relevant to the interaction and how do they impact it (RQ1.2); and how do individuals exert and resist control and exercise agency through their communication (RQ1.3)?

### **5.2.1 Framing dimensions of refugee family reunion legal advice-giving**

The first step in a CAT analysis is to identify the framing dimensions of the communicative activity type. These are the ‘*situation definitions* in terms of (prototypical) purposes and tasks, activity roles, scenes, times and medium, specific activity language (Allwood, 2000) and in general, the role of language (central vs. subsidiary) within the overall activity’ (Linell, 2010, p. 43). They are roughly equivalent to Levinson’s (1979) constraints on activity type. The data revealed clear patterns across all these categories, as follows:

- (a) (Prototypical) purposes and tasks:** In a legal advice meeting, the client’s main goal is usually to obtain advice from a legally qualified person about a legal issue they are facing, and the lawyer’s main (complementary) goal is to discover what the client’s issue is and advise them on how the law applies to their issue, and what options they have for resolving it. Table 5.2 lists the main purpose of each of the meetings forming part of the

data set. In Meetings 1, 2, and 5 to 8 the main purpose was to seek (and to give) advice, either on a first application for family reunion visas or on the client's options following a refusal decision. Meetings 3 and 4 were slightly different in that these meetings were arranged primarily to prepare a witness statement; however, in both of these meetings a substantial part of the interaction was taken up with giving legal advice.

**(b) Activity roles (participants and allowable contributions):** The key participants in a legal advice meeting are the lawyer and the client. Lawyer and client were both present in all meetings in the data set. Other participants may also be present if client consent is given, and in immigration law advice meetings, additional participants can include interpreters, and/or third sector or public sector support workers. In Meetings 1 to 4, a professional interpreter was present in addition to the client. A support worker was present with the client in Meetings 1, 3 and 7. In Meeting 7 the client's younger brother was also present. In all meetings, I was present as researcher and volunteer note-taker.

The roles performed by the participants, and the nature of their contributions to the interaction within the legal advice activity observed in the data, were quite stable, as follows:

- Lawyer: legal expert, who leads the discussion, asks the client questions about the facts, and advises by providing information on law and procedure and on the client's options.
- Client: lay participant and person who is affected by the legal issue, who provides information on the facts, receives the advice, questions the lawyer about law and procedure, and sometimes takes decisions in relation to options for action.
- Interpreter: linguistic intermediary, who provides two-way consecutive interpreting.
- Support worker: semi-passive participant who supports the client, listens to the advice with the client and may also question the lawyer about law and procedure.
- Researcher and volunteer: passive participant who observes and takes notes, remaining silent except during instances of small talk.

Note that allowable contributions and roles shifted during periods of interaction in which activities other than legal advice were engaged in; this is discussed at section 5.3 below.

**(c) Scenes, times, and medium:** Professional principles of client confidentiality, enshrined in the Solicitors' Code of Conduct (Solicitors Regulation Authority, 2011), would normally

require that a legal advice interaction take place somewhere private. Accordingly, all meetings took place in the advice service's meeting rooms, described in Chapter Four (section 4.5). They were face to face meetings conducted during business hours.

**(d) Role of language:** Language is central to the communicative activity type. It is the principal means of communication, whether in spoken or written form. Specific language, such as legal terminology (an example of languacultural resources), is evident throughout the data.

These framing dimensions of the CAT place the legal advice communication observed in these data squarely within conventional conceptualizations of institutional and professional communication, showing that individuals' contributions are generally related to the purpose of the meeting and the interactional roles that they each occupy (Sarangi & Roberts, 1999b). The main analysis which now follows consists of examining the 'internal interactional organisations and accomplishments' (Linell, 2010, p. 43) of the CAT, including the interactional phase structure evident and resources drawn upon within the legal advice communication.

### **5.2.2 Phase structure and features of legal advice-giving activity in refugee family reunion advice meetings**

As mentioned in the introductory section to this chapter, the phases of legal advice-giving observed in the data followed a common sequential structure across meetings, albeit with some variation between meetings. The general structure consisted of an introductory phase; three principal phases, or 'core communicative projects' (Linell, 2010, p. 43), present in all meetings (highlighted in bold below); further phases occurring in some, but not all, meetings (marked by '[Possibly]' below); and finally a concluding phase, as follows:

1. Greetings, and if the parties do not know each other, introductions.
2. **Information-gathering ("interviewing").** The lawyer requests information from the client about the issue, and the client responds with information.
3. [Possibly] Tentative initial advice offered by the lawyer.
4. [Possibly] further information-gathering.
5. **Advice on the situation ("counselling").** Once she has all the information needed, the lawyer advises the client on how the law applies to the situation, setting out the options available to the client to deal with the situation if appropriate including advantages and disadvantages of each.
6. [Possibly] Client questions and responses. The client may ask the lawyer some questions, as the client seeks to understand the advice and the options presented.



7. [Possibly] Client decision. If there is any decision to be made by the client about the next steps, the client may take the decision (alternatively, the client may leave the meeting without deciding, if he or she needs time to reflect).
8. **Advice on the next steps.** The lawyer gives the client advice on the next steps, and discusses this with the client. This may involve making administrative arrangements.
9. [Possibly] Further questions from client or lawyer. The lawyer and/or the client may ask each other more questions, to obtain more information or understand the consequences of actions.
10. [Possibly] Other action by lawyer. Whether or not the lawyer takes any other action, such as printing information for the client to take away, depends on the advice given and any decisions made by the client about what to do.
11. Closing of the meeting, and farewells.

The three principal phases of information-gathering, advising on the situation, and advising on the next steps, emerged in some form in all meetings, except for Meetings 3 and 4 which are missing the information-gathering phase (advice was here a follow-on activity from a different main activity). The other phases listed were more or less salient in different meetings, reflecting variations in the client base and their needs. There is a broad similarity between the phase structure described above and Sherr's (1986a) model of interaction in lawyer-client advice meetings (Appendix B), as might be expected. In relation to the primary research question, they demonstrate how communication is still broadly organised in a clear discursive structure in the meetings analysed, even though communication is taking place interculturally and multilingually.

I now draw on extracts from the data to illustrate, phase by phase, this sequential discursive structure. I use micro-analysis to focus on the 'internal interactional organisations and accomplishments' (Linell, 2010, p. 43) in each phase, and the range of discourse types evidenced in the data, which demonstrate shifts and changes of relevance to the subsidiary research questions. I will show that whilst the framing contexts that are relevant to the interaction (RQ1.2) remained relatively stable across different phases of the legal advice activity, there was variation in the communicative resources employed (RQ1.1) and the interactional roles occupied and level of control or agency exercised by each participant (RQ1.3) in different phases of the meetings observed. A summary table of the analysis (Table 5.3) can be found at the end of section 5.2, and Appendix N contains the text of relevant laws.

### **Phase 1: Greetings and introductions**

Greetings, and where parties have not previously met, introductions, did invariably take place but were not always captured on the audio recordings (see Chapter Four, section 4.2.3). Data extract 1 below is from the start of the recording of Meeting 2 with Ahmed, illustrating introductions being made with a first time client:

*Data extract 1*

	Speaker	Original language	Translation to English (where Arabic spoken only)
1	J	((missing audio)) the immigration solicitor at (ADVICE SERV↑ICE)	
2	Int A	إسمي Julia وأنا محامية الهجرة في (ADVICE SERVICE)	my name is Julia and I am the advocate from (ADVICE SERVICE)
3	A	mmm	
4	J	okay? I understand you want some advice about family reunion?	
5	Int A	ولديها معلومات أنك تحتاج نصائح بخصوص لم شمل العائلة؟	she has information that you need pieces of advice regarding family reunion?
6	A	mmm	
7	Int A	(yes)	
8	J	(..) ok↑ay, and it's just for your w↑ife is that right?	

Meeting two transcript, 00:00 – 00:27

In this short extract, Julia introduces herself to Ahmed, and sets the scene for the meeting by referring to the information that she has on the Client Record Form (see Chapter Four, section 4.5.2) that Ahmed requires family reunion advice about his wife.

**Phase 1 – Analysis.** In several meetings, participants know each other already and no introductions are needed in this initial phase. Where introductions are made, the limited data I have shows that it is Julia, the person in charge of the interactional space, who leads the talk and controls the topic, demonstrating interactional control in this phase (RQ1.3). Data extract 1 is from an interpreted advice meeting using English and Arabic, and illustrates interactional organization typical of the legal advice activity within the interpreted meetings in the data set: that is, interpreting is consecutive, with Julia speaking in English, using short turns at talk and then pausing to allow for interpretation (RQ1.1). At line 1 she finishes her sentence with a rise in pitch to offer the next speaking turn to the interpreter, which she often does. In addition to the talk, Julia draws here on a document, the Client Record Form (RQ1.1), for contextual information about the reason for Ahmed's visit, which information she draws on in her opening lines (RQ1.2). The context of Ahmed's prior interaction with the advice service, when he was asked for basic details

about his issue, is thus brought into the present interaction in an intertextual, connecting move (see further Chapter Six). In this phase, Julia also demonstrates control by initiating the move into the next phase, as illustrated at line 8 of data extract 1 when Julia moves swiftly with a question into the next, information-gathering phase of the meeting.

## **Phase 2: Information-gathering (interviewing)**

As is clear from the models of lawyer-client interviewing structure discussed in Chapter Two (Binder et al., 1991; Sherr, 1986a), the information-gathering phase is a central phase of legal advice activity. The phase varies in length depending on the complexity of the issue, and in terms of discourse type, may take the form of the lawyer reviewing documentation brought along by the client; a series of closed questions and answers; an open question from the lawyer followed by a client narrative; or any combination of the three.

Notably for RQ1.1, the use of documents as communicative resources in this phase is a feature whenever the legal issue concerned has a previous history. In Meetings 1 and 6 (meetings with existing clients of Julia's concerning the refusal of a previous visa application), phase 2 information-gathering takes place entirely through Julia reading a document: the refusal decision issued by UKVI. In both cases, the document, combined with Julia's prior knowledge of the issues, provides all the information that Julia needs and she has no additional questions for the client. A connection between the first and second subsidiary research questions is evident here in that documents are used to share contextual background – in this case, about the latest status of the client's legal matter (RQ1.2). The use of documents as a communicative resource (RQ1.1) speeds up information transfer, and quickly establishes a shared context between lawyer and client for further interactional work without the need to establish this verbally.

Sometimes both questions and documentation are drawn on in information-gathering, as in Meeting 8 with Mebratu, a first-time client. Data extract 2 is taken from early on in this meeting, as Julia draws on the Client Record Form (from which Julia assumes Mebratu wants to make a first visa application for his wife) to frame information-gathering:

### *Data extract 2*

	<b>Speaker</b>	<b>Original language</b>
1	J	°okay° (.) and your wife is in: >Ethiopia at the moment<
2	M	yeah
3	J	okay (.) um and (..) does she have a: (.) passport?
4	M	yes
5	J	yeah >she has a passport< (3) do you have a: >marriage certificate?<
6	M	traditional marriage

7 J it's a traditional marriage °ok↓ay° (.)  
8 J but you were living together (.) be- [before you left, okay  
9 M [yep yeah  
10 J do you have any evidence of that? (.) [um, photographs or (.) any:  
documents?  
11 [((sound of a Velcro fastener being  
opened))  
12 J (..) [that can evidence [that  
13 M [mmm, [(the) traditional marriage certificate (xxx)  
14 J RIGHT OKAY you've got- okay, okay (.) um (3)  
15 M er, I wanna tell you something  
16 J mmm hmm?  
17 M I tried this before  
18 J okay,  
19 M I applied it before  
20 J yep  
21 M with a solicitor  
22 J okay  
23 M they refused it  
24 J okay have you got a copy of the decision there  
25 M °yeah° (10) ((sound of M getting papers out of an envelope can be heard))  
26 J ((whispering)) °okay thanks°\*  
27 (65) ((silence whilst Julia reads the papers, apart from the sound of a pen and  
a phone vibrating))  
28 J okay, so- (..) di- (..) did you appeal? this decision, or  
29 M no

\* Observation notes: 'copy decision handed to Julia'

Meeting eight transcript, 00:30 – 02:47

In this extract a combination of answers to questions, information volunteered by the client, and documentation is drawn on to establish a shared understanding of the client's situation. As with the interactions in phase 1, Julia initially leads the talk, posing questions suited to a first-time applicant. The exchange is structured between lines 1 to 14 as a classic 'initiation-response-feedback (IRF) sequence' (Sarangi & Coulthard, 2000, p. xxvi citing Sinclair and Coulthard, 1975) of either closed questions, answers, and feedback, or closed rhetorical question-like statements, confirmatory answers from the client, and feedback; Julia has interactional control with the use of this discursive strategy (RQ1.3). In this extract, at lines 5 and 7 feedback consists of Julia repeating key phrases voiced by Mebratu in acknowledgement - a recognized linguistic strategy for the negotiation of understanding (Bremer et al., 1996). The IRF sequence interactional pattern frequently occurs in the data, whenever Julia seeks precise information from her client. At line 15, however, Mebratu interrupts the interactional pattern with an interjection: 'I wanna tell you something'. Following the interjection, control of the topic shifts to Mebratu in lines 15 to 23 as Mebratu informs Julia that he has already applied for a visa for his wife, but was refused. Julia

voices only minimal acknowledgement tokens indicating listening and understanding, during these turns. The client's exercise of agency changes the direction of the interaction: once Julia understands that Mebratu has already applied for a visa once, she immediately asks at line 24 for the refusal decision - the key piece of information she needs to assess the legal situation. Mebratu produces this, and over a minute's silence follows as Julia reads the document, after which Julia continues with further closed questions (lines 28, 29 and following on from the extract) about the first application. In this extract, the interplay between the use of specific discursive moves (IRF sequences by Julia; an interruption by Mebratu) and interactional control, can be seen (RQ1.1 and 1.3), as can once again the use of a legally significant document for information transfer (RQ1.1).

A similar set of questions is evident in Meeting 2 with Ahmed (an actual first-time applicant), but in this interpreted meeting the pattern of the interaction is slightly different, as data extract 3 shows:

*Data extract 3*

	Speaker	Original language	Translation to English
1	J	okay (.) er does she have a passport?	
2	Int A	هل تملك زوجتك جواز سفر؟	does your wife have a passport?
3	A	لا (xxx)	no, (xxx)
4	Int A	no she doesn't have one no	
5	J	okay (.) um (.) do you- know that she'll need to: obtain a passport in order to do the application?	
6	Int A	هل تعلم أنه يجب عليها الحصول على passport للتقديم على الطلب؟	do you know that she has to have passport for the application?
7	A	يعني يجب عليها قبل التقديم ؟	she has to get it before applying?
8	Int A	so (.) she needs to have a passport before [she app↓ly	
9	J	[yes, yeah	
10	Int A	نعم (.) قبل أن تقدم	yes (.) before we apply
11	A	حسنًا	alright
12	J	that's the first step really (.) um obtaining the passport	
13	Int A	هذه هي أول خطوة (.) الحصول على جواز سفر	this is the first step (.) having the passport
14	J	okay? (.) and do you have a marriage certificate?	
15	Int A	هل لديك وثيقة زواج؟	do you have marriage certificate?
16	A	لا	no
17	Int A	no I don't have it	

18	J	does your wife have it?	
19	Int A	هل زوجتك تملكها؟	does your wife have it?
20	A	نعم في السودان	yes, she does in Sudan
21	Int A	yes in Sudan	
22	J	okay (.) um but she has the <u>original</u> document	
23	Int A	(what so-)	
24	J	the <u>original</u> document	
25	Int A	هل لديها الوثيقة الأصلية؟	does she have the original one?
26	A	القسيمة .....	the certificate .....
27	Int A	الخاصة بالزواج؟	marriage certificate?
28	A	تقصدين القسيمة؟	you mean the certificate?
29	Int A	mmm hmm	
30	A	(xxxx)	(xxxx)
31	Int A	yes, she have	
32	J	okay	
33	Int A	نعم الأصلية	yes, the original
34	A	mmm	
35	Int A	yes	

Meeting two transcript, 00:36 – 01:41

In this extract, a similar interactional pattern of closed questions to that used in data extract 2 is used in IRF-sequences, but is this time combined with consecutive interpreting of short turns at talk. It can be seen that because of the shorter phrasing of closed questions and responses and close adherence by the interpreter to the principal speakers' meanings, this is quite straightforward and interpreting as a means of communication across languages is successful (RQ1.1). In addition, the questions are interspersed (as at line 5) with initial advice (framed in question form) as Julia receives information about key evidential documents, in a blending of the information-gathering phase with the advice phase of the meeting.

There is a great deal of additional linguistic work by all parties going in to achieving understanding in this interaction, compared with the previous extract 2 from Meeting 8. Firstly, the client Ahmed checks his understanding through repeating key information in question form at lines 7 and 28. Secondly, the interpreter at line 23 checks her own comprehension with Julia ('what so-?'), before interpreting Julia's question about whether the certificate is an original. Thirdly, between lines 14 and 35 Julia asks explicit follow-up questions to make sure that she gets a full picture from Ahmed regarding his marriage certificate. Julia here does not take Ahmed's first answer (lines 16-17) at face value, demonstrating her contextual awareness that the client may have understood the question 'do you have a marriage certificate?' more literally (i.e., do you personally have your marriage certificate in your possession?) than she intended (i.e., is there, somewhere in the world,

a marriage certificate which evidences your marriage?). Julia demonstrates an understanding that patterns of inferencing may not be clear when interviewing interculturally and across languages (Gumperz, 1992). She realises that she cannot necessarily make the same inferences from the client's response that she might do if the client were a British English speaker, and due to this knowledge (a discursive resource, RQ1.1) is explicit with her questioning in order to obtain full answers. Such linguistic work to explicitly negotiate understanding is evident throughout the data, and is a key feature of all parties' linguistic and discursive practices in these legal advice meetings of relevance for subsidiary RQ1.1.

A contrasting example of the elicitation of information in phase 2 is illustrated in data extract 4 from Meeting 7 with Ismail and his younger brother Farah. Lawyer and clients know each other, since Julia represented Ismail, and separately also Farah, in their asylum applications as unaccompanied child applicants several years previously. Julia does not have any prior information about why Ismail and Farah have now come to see her, and therefore opens phase 2 with an open question:

*Data extract 4*

	Speaker	Original language
1	J	okay (.) go on then tell me hit me with it- (..) what's happened
2	I	[Somali short phrase]
3	F	[Somali short response] @@
4	I	[Somali short response] @
5	J	((nervously)) @@ don't ↑be shy <u>now</u>
6	I	okay
7	J	it's just me (..) c'mon
8	I	long time ((nervously)) @
9	J	yeah (.) what's been- (.) what's been goin on
10	I	yeah (.) you know (2) w- the first time when I come in <u>here</u>
11	J	mmm hmm
12	I	we: come <u>differently</u> me and him
13	J	yes
14	I	but: the (.) big problem (.) you know the (...) the guy who was look after us*
15	J	uh huh
16	I	he was name was [NAME OF AGENT]
17	J	yes
18	I	we born (...) four not two
19	J	(...) ri:ght (.) [ok↑ay
20	I	[understand?
21	J	yes
22	I	but (.) when I <u>help</u> us in (..) Yemen before comin here (he) tell us (.) you don't need to say, we are four
23	J	right

- 24 I if you say you are four you can't get help in there (.) and then they don't have money to help both of them (for)
- 25 J right (.) [okay
- 26 I [so (.) [so
- 27 J [so what you're saying is that you have secret (.) secret  
sib↓lings
- 28 I @yeah yeah yeah

\* Observation notes: 'client looking serious, hands clasped in front, looking at Julia'  
 Meeting seven transcript, 01:36 – 02:47

In this extract, Julia hands the narrative space to Ismail with an open question, inviting him at line 1 to tell her what the issue is. The informal and familiar register (a linguistic practice) reflects the social context of their prior relationship, a factor which Julia also draws on at lines 5 and 7 to encourage Ismail to share his issue with her. Between lines 10 and 26 Ismail takes the speaking floor, and he uses his first few speaking turns to refer to the brothers' journeys to the UK and to the agent (people smuggler) who arranged these. In doing this, Ismail draws on shared knowledge between himself and Julia from this prior relationship as a means of contextualizing and establishing a shared frame for the new information – the name of the agent, and the reference to the two siblings travelling to the UK separately, function as contextualization cues to bring this previous history of the case back into the present interaction. Then, at line 18, Ismail delivers this new information: that he and Farah actually come from a four-child family, and therefore have two siblings. After a comprehension check with Julia at lines 20-21, Ismail explains why neither brother has previously disclosed this information. At line 27, Julia takes up a pause in Ismail's narrative to 'formulate' this information, or to 'pin down relevant outcomes of topical talk' (Deppermann, 2011, p. 117 drawing on Antaki, 2008), showing by summarising that she has understood the narrative and the issue. This extract shows, in relation to subsidiary RQ1.2, how both main speakers draw (in slightly different ways) on the relevant context of their prior relationship and shared knowledge as supports to manage the elicitation, and delivery, of this new and quite sensitive information about the 'secret siblings'. Julia uses this context in relational work, to encourage trust and disclosure, whereas Ismail uses it to factually contextualize his current issue. The extract also once again illustrates, for RQ1.1, the linguistic negotiation of understanding by both individuals (here using linguistic strategies of either a comprehension check, or a formulation of prior talk).

Throughout data extract 4, Julia exercises 'communicative leniency' (Meeuwis, 1994), a passive communicative strategy of an L1 speaker allowing for (permitting) lexical, syntactic and grammatical errors in speech by an L2 speaker, and searching cooperatively to reach agreement on meaning. Julia overlooks grammatical errors in Ismail's L2 English linguistic practices to focus instead on the content of Ismail's message. This exercise of communicative leniency by English



L1 speakers (Julia, and support workers) in favour of English L2 speakers is evident throughout the data, and is another key dimension relevant to subsidiary RQ1.1 about how communicative resources are drawn upon in these meetings. This dimension reflects the focus in this communicative context on meaning transfer and co-operating to achieve understanding, rather than on linguistic accuracy. However, and similarly to observations made by Dieckmann and Rojas-Lizana (2016) in their data, the informal register Julia adopts sometimes causes comprehension problems for Ismail. For example, Ismail struggles to understand Julia's later question 'so are we talking (.) brothers or sisters or (.) one of each?' (Meeting seven transcript, 03:05) and has to ask for clarification from her, responding 'sorry?'

In spite of the informality of the exchange, the moves on both sides to establish shared understanding, and the narrative space given to Ismail, Ismail's acceptance of Julia's formulation at line 27 shows in relation to RQ1.3 that Julia remains in overall control of the topic and the interactional space; she seeks necessary information through closed, focused questioning for a further minute and a half before the information-gathering phase comes to an end.

### ***Phase 2 – Analysis.***

Data extracts 2, 3 and 4 demonstrate that information-gathering is a key phase in legal advice communication, but that interactionally, this phase in family reunion legal advice meetings can vary considerably from client to client. Across the data, the common internal interactional organizations within phase 2 are firstly that the agenda or purpose of this phase is to transfer information from client to lawyer (transforming previously non-shared contexts into shared contexts for the further advice); and secondly, that (as with phase 1) Julia is in overall control of the interactional space. Beyond this, however, variety is exhibited and a range of discourse types are used, from reading documents exclusively, to inviting an open narrative from the client and then following up with focused questions, to making use of short closed question-and-answer sequences. There may be a mixing of these discourse types in the phase.

Two key points can be extracted in response to subsidiary RQ1.1 asking what communicative resources are used, and how, in this phase of the advice meetings observed. Firstly, in so far as it involves invited narratives and question and answer sequences, the discourse types used in phase 2 information-gathering resemble the 'complaint' phase of a doctor-patient consultation (Byrne & Long, 1976). Data from Meetings 1 and 6, however, show institutionally-created documents being used as exclusive information providers where the matter already has a legal history. This use of documents as the primary means of communication highlights the importance of documentation within the legal advice context (see Chapter Two, section 2.1), and distinguishes

this context from the medical one, where documents such as medical records are used in conjunction with face-to-face patient interaction to gather information (Moyer, 2011). This use of documents also distinguishes the data from the legal advice interactional models discussed in Chapter Two, which focus on an initial advice meeting about a 'new' legal issue where institutional documents may not yet exist.

Also relevant to RQ1.1, the data show that the way verbal communication takes place within meetings shifts to accommodate the different communicative resources present, with a focus on meaning transfer and understanding, although still retaining English as the main language of interaction. Data extract 4 illustrates the use of communicative leniency by an L1 speaker in an interaction with an L2 speaking client. In data extract 3, the linguistic and cultural 'gap' that exists between Julia and her client is addressed by involving an interpreter to bridge the linguistic gap, but also by all parties making use of strategies for achieving understanding (Bremer et al., 1996), such as being more explicit in communication. In all extracts, strategies for negotiating understanding (use of confirmatory feedback, formulations, comprehension checks, clarifying gaps in understanding etc.) are employed where needed, demonstrating the dialogic, interactional nature of establishing shared meaning (Bakhtin, 1981). The interpreter is a crucial part of this within interpreted interactions, as data extract 3 shows.

In relation to the subsidiary RQ1.2, which asks what contexts frame and are relevant to the interaction, and how do they impact on communication, the data demonstrate how, in this information-gathering phase, information that is not shared between the parties is exchanged in a process of building a shared context for the rest of the interaction. In data extract 2, for example, Mebratu's mention of his previous application 'brings-about' (Auer, 1992) this prior application as a context for the advice interaction. Prior relationships form an important informational and relational context for interaction, as illustrated in data extract 4 where the client drew on shared knowledge to contextualize the 'new' issue, and the lawyer drew on their existing relationship to encourage disclosure, and employed a less formal register in her speech.

With regard to research question three (RQ1.3: 'how do individuals exert and resist control, and exercise agency, through their communication?'), although Julia is in control of the topic and the interactional sequencing, the data show that other parties in the interaction exercise agency within their own speaking turns to work towards clarifying or negotiating understanding, or to introduce important new information.

### **Phase 3: tentative initial advice**

Once enough information has been gathered, Julia moves into the advice-giving phase of the meeting (phase 5). As seen in data extract 3, however, in some meetings there is fluidity between phases 2 and 5, with Julia offering some initial advice but information-gathering then continuing. Another example of this fluidity is shown in data extract 5 from Meeting 6 with Aamina, whose children are with her in the UK and whose husband is in Belgium, trying to obtain a visa join them. Their first application has been refused. Having started the meeting in silence, reading the refusal document, Julia immediately enters into some initial advice about the reason for the refusal and Aamina's options:

*Data extract 5*

	Speaker	Original language
1	J	°okay° (.) so (3) essentially the rea- (.) one of the difficulties that we <u>had</u>
2	A	mmm hmm
3	J	um (.) when we talked about this before was (.) the lack of documents
4	A	mmm hmmm
5	J	because they: (.) expect (.) to see: marriage certifi↑cates
6	A	mmm hmm
7	J	er birth certifi↑cates etc. and that's that's why it's really <u>diffi</u> cult (.) to to make an application <u>witho</u> ut those documents
8	A	mmm hmm ((sniffs))
9	J	um (4)
10	J	so you have (2) a couple of options (.) um the first one (.) would be to (.) try and a- challenge this deci↑sion
11	A	mmm hmm
12	J	okay? (.) so would be to submit (.) the app↓eal
13	A	mmm hmm
14	J	and: ask them (.) ask an <u>independ</u> ent immigration judge to consider (.) the case
15	A	mmm
16	J	um (..) the problems (.) with that are: that it costs mon↑ey (...)
17	A	°okay°
18	J	because to (.) actually- (.) even just to <u>appe</u> al it (.) is a hundred and forty p↑ounds
19	A	mmm hmm
20	J	okay? (.) the <u>othe</u> r option (.) is to make another (.) <u>fresh</u> application
21	A	mmm hmm
22	J	<u>bu</u> t be very: (...) em, you know (.) provide more information about all of these points that they've raised or

Meeting six transcript, 00:55 – 02:22

At line 1, Julia signals that she is about to start speaking (a change of frame from the previous phase) with a whispered 'okay' followed by an introductory 'so' and a long pause. In the extract, Julia makes use of several linguistic accommodation strategies (Comfort & Franklin, 2008; see

Chapter Two, section 2.3.3) to accommodate to her client. Julia pauses frequently whenever she speaks, giving Aamina time to take in the information and to react. Julia also uses 'okay?' at the start of sentences at lines 12 and 20 to check comprehension with Aamina. Julia chooses her vocabulary carefully to try to ensure that her explanations are understandable to the client. She uses simple phrases, such as 'it costs money' (line 16) and 'it is a hundred and forty pounds' (line 18) to advise about the appeal fee, and re-phrases things in different terms to facilitate understanding, such as at line 12, where she re-phrases 'challenge this decision' (line 10) as 'submit the appeal'. She goes on to explain further what that means – asking someone independent to review the case – at line 14 executing a self-repair to replace her use of the deictic 'them' with 'an independent immigration judge' to make the meaning clearer to Aamina. At line 22, Julia hesitates after 'be very:', considering how to express in understandable language what the fresh application should achieve. By accommodating her language, Julia communicates effectively to Aamina in this initial advice the reasons for the refusal, what her options are, and some information on the disadvantages of one of the options (the cost of the appeal), which Aamina needs in order to take a decision on these options later. The use of linguistic accommodation strategies by L1 speakers in interaction with L2 speakers is a further key dimension of the data relevant to subsidiary RQ1.1. These strategies are evident in all phases of the interaction, although they are not always used with consistency, as will be discussed.

**Phase 3 – Analysis.** In phase 3, typical advising interaction is taking place. This discourse type will be discussed fully in relation to phase 5, but here I will note that it consists of a monologue by the lawyer, who has the speaking floor and is in interactional control, with only minimal acknowledgement tokens contributed by the client. Information exchange (and thus a building of shared context from previously non-shared context, relevant to subsidiary RQ1.2) of a different kind to that occurring in phase 2 is taking place; this time it is the lawyer sharing her expertise and knowledge of the legal institutional framework with the client, which in this act becomes explicit (rather than implicit) context for the meeting.

#### **Phase 4: further information-gathering**

Where interaction returns to information-gathering after some initial advice, this often takes the form of further questions from Julia to the client, as happened in data extract 3. In Meeting 6, however, Aamina takes control of the talk, changing the subject from the options she has just been presented with to explain to Julia that she does not have birth certificates proving her and her husband's relationships to her children, because she gave birth at home. Julia confirms that she knows that due to the civil war, and lack of functioning government bureaucracy, home births in Somalia are often not registered, and empathises with Aamina's position. This exchange (data

not shown due to space constraints) involves the client bringing a physically and temporally remote context which is nevertheless relevant to the conversation into the interaction, and the lawyer acknowledging and building on this in a relational move to demonstrate understanding. Aamina then offers further new information to Julia:

*Data extract 6*

	Speaker	Original language
1	A	but er (.) another (xxxx) about there (.) I went in December to see my hus↑band
2	J	mmm hmm
3	A	I have the <u>ticket</u> and <u>picture</u> for me and my husband my- (..) child
4	J	mm hmm
5	A	and I have the- (.) because I have, pregnant now @
6	J	right okay, mmm
7	A	yeah I have um (.) detail from (.) <u>hospital</u>
8	J	okay
9	A	because I'm tell my (.) <u>midwife</u> about my husband and
10	J	mmm (.) yeah

Meeting six transcript, 03:16 – 03:42

Once again, in this extract Aamina is the one initiating a topic change at line 1 – although in doing so Aamina remains within the ‘frame’ (Goffman, 1974) of providing further information about her circumstances to Julia. Aamina’s act of agency in speaking up brings important new information (about Aamina’s visit to see her husband, new pregnancy, and documents evidencing these events) into the interaction that may not necessarily have emerged through questioning directed by Julia.

**Phase 4 - Analysis.** Data extract 6, and the very presence of phases 3 and 4 in the CAT structure for legal advice, illustrates the dialogic nature of the legal advice interaction evident in the data (Bakhtin, 1981, 1986a). These phases demonstrate that there is room for flexibility and shifts back and forth between interactional phases, initiated by lawyer or client. It prompts consideration of how the discursive structure of legal advice, a discursive strategy (RQ1.1) managed by the lawyer and acquiesced in by the client to ensure purposeful communication, is related to the subsidiary RQ1.3, examining questions of control and agency in interaction. In legal advice, the contributions of both lawyer and client are required if meetings are to be successful, and sufficient interactional space must be created for both parties to contribute. Reflecting points made in Chapter Two, the phased organisation of talk helps to provide the necessary interactional space; the analysis shows that flexibility in this phasing may sometimes be required to achieve the necessary balance. Relational work between lawyer and client also supports this aim, as in

the meeting featured in data extract 6; the client Aamina felt comfortable enough to initiate a topic change and to volunteer important new information.

Reflecting observations made in Chapter Two about contexts for communication (see section 2.5.2), data extract 6 shows in relation to subsidiary RQ1.2 that new information contributed by the client may bring in physically or temporally distant spaces and events, such as the birth of a child in Somalia some years ago, as relevant context to the present legal situation. The extract also highlights, in relation to both RQ1.1 and RQ1.2, that the resources and shared contextual knowledge of the parties develop over the course of (sometimes prolonged) mutual interaction. Aamina knows from previous experience and advice that providing UKVI with documents to evidence assertions of fact is important, hence why she emphasizes the documentary evidence of her trip to see her husband at lines 3 and 7 of data extract 6. She has acquired discursive resources (a form of cultural, and thus contextual, knowledge, Risager, 2006) in the discourse of UK refugee family reunion legal procedures. In other meetings, returning clients also exhibit a similar awareness of processes and procedures, demonstrating learned discursive resources being used in interactions in a manner similar to that recounted by Trinch (2005). This is a fundamental and important point, illustrating that the view of culture (and cultural differences) as something static or fixed, as Bryant (2001) advances in her approach to cross-cultural lawyering, is a misapprehension. Linguistic, languacultural, and discursive resources flow across groups and individuals through different kinds of intercultural interaction (Risager, 2006), of which legal advice meetings are one instance, because individuals learn from each other.

In the speaking turn following data extract 6, Julia moves back into advising Aamina on her options, discussing a possible new visa application using this new information. The shift of phase, or communicative project (Linell, 2010), back into advice-giving is effected with a frame shift, indicated or keyed (Goffman, 1981a) verbally with the word 'so'. The interactional pattern changes back to a lawyer monologue discourse type.

#### **Phase 5: advice on the situation (counselling)**

Phase 5 is the second principal phase of legal advice activity evident in the data. In it, the lawyer explains the law and how it affects the client's situation, and sets out the options open to the client to deal with the situation. The discourse type, which matches that described at phase 3 above, is typically monologic and lawyer-controlled, with short-turn consecutive interpreting if the interaction is interpreted. In the data, the move into the advice-giving phase is often very direct, comprising a sudden shift in footing with little signposting.

In data extract 7 from Meeting 1 with Khalid, a repeat client, the meeting starts directly at the advice-giving phase. This is because Steve, Khalid's NGO support worker, had dropped off the documents refusing visa applications for Khalid's wife and children to the advice service for Julia to read in advance (a copy of the refusal decision for Khalid's wife is at Appendix O). Julia therefore starts the meeting, which Steve also attends, by advising on the refusal:

*Data extract 7*

	Speaker	Original language	Translation to English
1	J	okay? (.) um I I've ↑had a (.) a chance to (.) to read through the decisions, um (..) thank you t- to Steve for for dropping those off	
2	S	°s'alright°	
3	Int A	mmm	
4	Int A	كان لدي الفرصة لقراءة هذه القرارات ونشكر Steve لأنه أحضر لي الأوراق	I had the chance to read the decisions and thanks to Steve for bringing me the papers
5	J	and they <u>are</u> (.) simply ridiculous, °@°	
6	Int A	وهم ببساطة غير معقولين	simply, they are unbelievable
7	J	they're on ↑such minor issues,	
8	Int A	هنالك بعض الأشياء البسيطة جداً	there are many tiny issues
9	J	um (.) and it's mainly about the dates on which the the certificates were <u>iss↓</u> ued	
10	Int A	and it's what sorry?	
11	J	mainly about the <u>dates</u> on which the certificates >were <u>iss↑</u> ued so the <u>marriage</u> < certificate and the <u>birth</u> certificates	
12	Int A	كانوا بخصوص تواريخ الشهادات، شهادة الزواج والميلاد	about certificates, marriage and birth
13	K	mmm	
14	J	okay? (.) because (.) entry clearance officers <u>stupidly</u> believe (.) that (.) everything happens as it does (.) in <u>this</u> country	
15	Int A	cos what- er (.) who's who's believe?	
16	J	the entry <u>clearance</u> officers, who make the deci↓sion	
17	Int A	لأنه ببساطة مصدري القرار لديهم اعتقاد بأن أي شيء ممكن أن يحدث في هذه البلاد	well, simply, decision makers think that anything could happen in this country
18	J	okay so <u>they</u> think (.) that as soon as you have a baby in Sudan (.) you have (.) you obtain the birth certificate regardless of which area you live in	
19	Int A	mmm	

20	J	um similar >with the marriage certificate< and (.) <u>I</u> know (.) and >everyone else in the world probably knows< @ that that just <u>doesn't</u> happen (.) that way	
21	Int A	لأنهم يعتقدون بأنك بمجرد الحصول على طفل في السودان فإنك تحصل على الشهادة مباشرة وكذلك عقد الزواج ونحن نعرف بأن هذا لا يحصل في كل مكان في العالم	they think that as soon as the baby is born in Sudan, you get the birth certificate immediately and even the marriage one. We know that such thing do not happen all over the world
22	J	okay? (.) so I <u>do</u> think: that you stand an <u>incredibly</u> good chance of challenging this dec- these decisions on °ap↓peal°	
23	Int A	لذا فإنني أعتقد وبقوة بأن لدي موقف قوي جداً إذا قدمت على طعن للقرار	so, I strongly believe that we have solid position if we applied for appeal

Meeting one transcript, 00:29 – 02:45

In this extract, Julia advises Khalid on the reason why his application was refused: the date of Khalid's marriage to his wife and dates of birth of his children did not correlate with the dates of the relevant certificates given as supporting evidence, leading UKVI to conclude that the certificates were not genuine. Again, Julia is the only main speaker, and two-way consecutive interpreting is used. However, Julia refers implicitly to key documents ('the certificates', line 9), and draws on specialist terminology ('entry clearance officers', line 14), without explaining in explicit terms what these are. Also, her explanation of the issue with the dates at lines 9 and 11 is not clearly structured. Julia displays a relative lack of linguistic accommodation compared with some other interactions in the data. This may be because she has advised Khalid and Steve on this matter before, and assumes they will be sufficiently aware of the 'languaculture' (Risager, 2006) of family reunion to infer her intended meaning of these terms by drawing on their contextual knowledge.

This causes confusion, however, because the interpreter does not have the specialist contextual knowledge necessary to understand Julia: she asks for clarification about the term 'certificates' at line 10, and then misses the key word 'dates' from her translation at line 12, and also asks for clarification of the specialist term 'entry clearance officers' at line 15 (then only glossing it in translation at line 17). It emerges later in the meeting during questions that Khalid did not understand the explanation given here. In the extract above, it appears that the breakdown in communication is due to a combination of the lawyer's failure to explain context-specific terms, the interpreter's lack of contextual knowledge, and inaccurate translations, to which the other factors may have contributed. It illustrates the close connection between languacultural



resources (RQ1.1) and contextual knowledge (RQ1.2), and an interpreter's role in recognising these and making them explicit in the dialogue (see Chapter Two, section 2.4.3, and also Hale, 2007, p. 17).

Data extract 7 also illustrates Julia making use of strong evaluative language and explicit self-positioning in favour of the client's position and against the practices of UKVI, using a range of semiotic resources including emphasis and tone of voice to highlight this. Examples are: 'simply ridiculous, °@°' at line 10; 'stupidly believe' at line 19; 'they think ... but I know and <everyone else in the world probably knows> @' at lines 23 and 25. Julia displays a definite self-positioning to the others present through her communication choices, in work of affiliation with the client, which is communicated through interpreting. This is a positive politeness strategy (Brown & Levinson, 1987) serving relational purposes: Julia uses linguistic resources (RQ1.1) to position herself on the client's side and in the position of advocate for him. The relational move is designed to build trust, and has been shown in other studies to be a key role sometimes adopted by lawyers in interactions with clients (Dieckmann & Rojas-Lizana, 2016; Trinch, 2001). Throughout the data, not just in this interaction, Julia is seen to affiliate with clients and position herself as their supporter.

A different strategy that Julia also uses for relational work in the legal advice activity, is to draw on analogies grounded in common experience, often combined with humour. Data extract 8 below illustrates her use of one such analogy (also used in Meetings 1, 2, and 8) as she is advising Aamina that they need to prepare a clear supporting statement to accompany any fresh application:

#### *Data extract 8*

	Speaker	Original language
1	J	and I use th- this analogy ((exhales)) um a a lot (.) but (2)
2	J	explaining something (.) to: an entry clearance offi↓cer
3	A	mmm hmm
4	J	which is the <u>person</u> who made this decision
5	A	mmm hmmm
6	J	is a bit like <u>spoon</u> feeding a <u>baby</u> ((exhales with smiling tone))
7	A	((softly)) @@
8	J	((laughing tone)) and I know that sounds <u>silly</u> (.) <u>but</u> (.) wh↑en you spoon feed a <u>baby</u> (.) you'll <u>know</u>
9	A	mmm hmm
10	J	you have to break it ↑down (.) into sm↑all (.) manage↑able ch↓unks (.) for the baby to take food ↑in
11	A	mmmm
12	J	entry clearance officers (.) are like @ <u>babies</u> @
13	A	°@°

- 14 J ((smiling tone)) because you have to break down  
 15 A mmm  
 16 J the information you give them (.) into small (.) manageable (.)  
 chunks (.) so that they take that ↑in (.) and they accept ↓it

Meeting six transcript, 14:47 – 15:59

Multiple relational strategies are in use here: as well as introducing some humour to lighten the mood, the shared context (or shared frame, Goffman, 1974) of parenthood is brought in and drawn upon by Julia through a ‘lifeworld metaphor’ (Sarangi, 2000, p. 19), to relate the advice about what makes a robust family reunion application to the client’s experience. This foregrounds a common bond between lawyer and client: Julia is herself a parent and frequently shares this information with clients in meetings. The analogy draws on the poetic dimension of language described by Risager and Kramsch (Kramsch, 1998, 2009; Risager, 2006), to render the advice more accessible, in the use of this particular dimension of linguistic resources (Risager, 2006; RQ1.1). In addition, a gentle humorous pun is crafted about the institutional representatives whose job it is to assess and make decisions on these applications, simultaneously crafting a different sort of bond of solidarity in the interaction, one of the ‘us-against-them’ kind. In contrast to data extract 7 above, Julia does linguistically accommodate by explaining the meaning of ‘entry clearance officer’ to Aamina at line 4, demonstrating her awareness that the client may not be aware of the languaculture of UKVI or of family reunion application processes. The extract illustrates another way in which Julia accomplishes empathic and relational work linguistically and contextually in family reunion advice-giving interactions.

A final, contrasting example of less successful interaction in the advice-giving phase of legal advice activity comes from Meeting 5 with Jamal. In phase 2, Julia has discovered that Jamal wants to apply for a visa not only for his wife and two children, but also for his brother (aged under eighteen) who lives with them. Julia has already tried to explain that this will be ‘difficult’ because the family reunion rules do not apply to siblings; but Jamal appears not to have understood this because he asks again in data extract 9 below about his brother:

#### *Data extract 9*

- |   | <b>Speaker</b> | <b>Original language</b>  |
|---|----------------|---|
| 1 | Jamal          | bro↑ther: in- (..) (done) er: (.) use er (.) my <u>bro</u> ther to come here  |
| 2 | J              | it’s but you can <u>try</u> .   |
| 3 | Jamal          | oh  |
| 4 | J              | you can <u>try</u> (..) um (.) it doesn’t it- it- the- (..)   |
| 5 | Jamal          | no [°possible°  |
| 6 | J              | [YOU CAN TRY at the same time (..) as (..) your wife and the <u>ch</u> ildren (..) um, (..) and and argue that he was: (..) he was part of your (..) family u↓nit (..) <u>be</u> fore you left (..) Sudan (..) it doesn’t it- it won’t (..) um (..) impact on your <u>w</u> ife’s application or the <u>ch</u> ildren’s |

- >application it won't make a difference to that< (.) um (..) shall we:  
see if I can get (.) um (...) interpreter?
- 7     Jamal     fine
- 8     J           =°yeah° (.) I think we're struggling a little bit

Meeting five transcript, 07:13 – 08:07

In line 1, Jamal draws on the limited vocabulary in his L2 English resources to ask whether the family reunion process can be used to obtain a visa for his brother. In her response at lines 2 and 4, Julia uses emphasis on the word 'try' to build on earlier advice that this may be a difficult thing to do. Jamal seems to pick up on the negative tone, since at line 5 he says 'no (possible)', reformulating and checking what he has understood. This is not quite what Julia is advising, however, and Julia repeats her words with emphasis at line 6 before giving Jamal full advice, but without making any effort to linguistically accommodate. Julia has realised by now that the linguistic gap between them is too wide for the complexity of what they need to discuss, and that an interpreter is needed for successful communication. Julia suggests this, and Jamal agrees, both parties here acknowledging the communicative failure.

#### ***Phase 5 – Analysis.***

As has been discussed above, phase 5, the advice-giving phase, is characterized across the data by a discourse type of one-way verbal interaction as Julia delivers information, explanation and advice to the client.

The means of communication (RQ1.1) are overwhelmingly verbal, although sometimes key documents (e.g. the refusal decision in data extract 7) are drawn on as context for the advice. As well as imparting information and advice, Julia also uses a wide range of verbal strategies to accomplish relational work in this phase, building trust by using humour, affiliating with her client through evaluative positioning and strategic use of linguistic and paralinguistic resources, and using analogies grounded in shared experience to strengthen relationships. Where interactions are interpreted the interpreter's voice is also present, but generally only in the role of 'animator' of Julia's words, with Julia performing the role of 'author' and 'principal' (Goffman, 1981a, p. 144). The style of interpreting is the same as for phase 2 (consecutive interpreting of short turns). Julia frequently uses linguistic accommodation strategies with clients, for example explaining specialist terms in lay language, unless she assumes others are sufficiently familiar with the specialist languaculture to not require this. Communication difficulties can arise, however, where interpreters lack the necessary shared context and/or languaculture. Successful communication (in terms of the goal of the meeting being achieved) is not always possible, and Meeting 5 exemplifies a rare communicative failure due to no proper match being made in advance of the meeting between the client's advice needs and linguistic resource provision.

In relation to subsidiary RQ 1.2, the contexts framing the interaction in phase 5 are largely the non-shared contexts of the law, its impact on the client, and legal processes that are open to the client as options (this is further explored in Chapter Six). Communicative exchanges overwhelmingly involve the lawyer explaining aspects of these previously non-shared contexts. Seemingly remote shared contexts are also occasionally brought into the interaction, however, such as the bringing in of the context of parenthood in data extract 8 through a 'lifeworld metaphor' (Sarangi, 2000, p. 19), for explanatory and relational purposes.

In terms of control and agency (subsidiary RQ1.3), the lawyer retains firm control in this phase, except where interpreters exercise agency to raise a query or clarification. This is usually accepted by the client.

### **Phase 6: client questions and responses**

The next phase, comprising client questions and responses, often merges into and builds symbiotically on phase 5, since the answers to questions which the client asks in relation to the advice effectively constitute a continuation of the advice. The difference lies in the change that takes place in the organization of interactional turns, and sometimes also control of the topic, as the client may initiate a shift in topic or force a focusing in within one topic through their questions.

An example is taken from Meeting 1 with Khalid, in which he is considering what to do after visa applications for his wife and five children have been refused. Julia has advised him that he can submit new applications with more supporting evidence for his wife and youngest three children (who are all still under eighteen), which is a free process and will result in a reviewed decision in around three months. However, because his oldest two children (twins) have become eighteen since the original application was submitted, and therefore no longer qualify for refugee family reunion visas under Immigration Rule 352D, Khalid cannot make new applications for visas for them. His only real option with respect to the twins is to submit an appeal to the IAT against the visa refusal decisions. The appeal process, however, attracts a fee of £140 per appeal. Julia's advice about this cost of an appeal prompts Khalid to ask the following question:

#### *Data extract 10*

	Speaker	Original language	Translation to English
1	K	حسناً، إذا طلبوا فحص DNN ، هل سأقوم بدفع مبالغ أخرى أم أن المائة والأربعون تشمل الفحص؟	okay, if they asked for DNN test, would I pay other amounts, or the £140 covers the test?

2	Int A	mmm (.) so (.) is the er one forty (.) er includes er- er (.) DNN if they ask for ↓it (.) er or does it=	
3	J	=well: they have a policy to <u>do</u> it if it's if it's an <u>iss↑ue</u> (.) um: but they ↓don't use that policy (.) we can- (.) we, we can <u>say</u> in the <u>appeal</u> that we want them to ↑do that (.) [um:	
4	Int A	[um er oh but <u>he</u> asking about the if it does- [(xxx)	
5	J	[it doesn't include- (.) I mean their- <u>their</u> policy is t- (.) they <u>should</u> do it for <u>free</u> but they r- very rarely do (.) um for <u>him</u> to do DNA on his <u>own</u> he would have to pay for that separate↓ly (.) but we <u>can</u> ask for it to be done (.) um	
6	Int A	الإستراتيجية تنص على يكون الفحص بلا مقابل ولكنهم نادراً ما يطبقون ذلك وبالعادة يجعلوك تدفع ولكننا من الممكن أن نطلب منهم عمل الفحص	the strategy says that the test is for free. However, they rarely apply this and they usually make you pay. Yet, we can ask them to do the test
7	Int A	I'll just um (.) clarify this because I hear you saying DNA? (.) but him saying DN- DNN? (.) is it the same thing?	
8	J	right, yeah it's it's the DNA testing to confirm (.) they're related	
9	Int A	DNA أنت تقصد فحص	you mean DNA test?
10	K	الفحص الفحص الخاص بالجينات	yes, yes, the one for genes
11	J	°yeah (.) yeah°	
12	Int A	ah okay- <u>yeah</u> , it's the DNA yeah, I just to make sure that[	
13	J	[that's okay yeah[	
14	Int A	[we speak about the same thing	

Meeting one transcript, 15:12 – 16:46

In this extract, Khalid brings the topic of DNA testing and its cost into the interaction, in response to the mention of the £140 fee. This client-initiated shift in topic is prompted by Khalid's contextual knowledge, acquired through community networks, about the occasional use of DNA testing in family reunion applications and the high cost of this (see data extract 24 below). Julia at line 3 does not respond directly to Khalid's question about cost at line 1, focusing instead on whether UKVI would do a DNA test. The interpreter realizes that the client's question about the cost has not been answered, and at line 4 interrupts, speaking for the client to reiterate the question and leading Julia at line 5 to clarify her response and answer the original question (that

the appeal fee doesn't include DNA). This is interpreted for the client, but then at line 7 the interpreter intervenes again, since two different initialisms (DNN and DNA) are being used by lawyer and client to refer to what the interpreter has assumed in her renderings thus far are probably the same thing. In lines 8 to 14, the interpreter checks with Julia and Khalid in turn to make sure that her assumption was correct. Connecting both RQ1.1 and RQ1.2, this extract provides a vivid example of the interpreter mediating between two speakers who seem to be drawing two slightly different contexts into interaction. Julia is focused on the appeal process, with cost being a factor in this, but Khalid is focused on the issue of DNA testing and the costs of that, and the interpreter needs to exercise agency, interrupting Julia, to make sure that both the English and Arabic floors of the conversation are kept together and focused on the same context. Following Wadensjö (1998) and Mason (2006), the interpreter is an active manager of the dialogue here in a situation where communicative resources, signalled contexts, and interactional control and agency are all significant factors.

In a second data extract from Meeting 7 with Ismail (also attended by Ismail's brother Farah and the youth worker David), Julia responds to Ismail's repeated questions about possible ways of trying to bring his two previously undisclosed younger siblings to the UK. Julia has already advised Ismail that the rules on refugee family reunion do not apply to siblings, and so Ismail would have to make an application 'outside of the rules' (Meeting 7 transcript, 09:51) (essentially, on a discretionary basis). He would need to provide strong evidence to firstly prove that the two children are his siblings, secondly explain and justify why neither Ismail nor his brother Farah have previously disclosed the existence of younger siblings to UKVI, and thirdly explain why the circumstances are so extreme that they justify an application made outside of the Immigration Rules being granted. Julia has advised that because the family doesn't have any birth certificates, proving the relationship will need to involve expensive DNA testing, to which Ismail responded that he had already spoken to the Red Cross about the situation and that he might be able to get financial help from them if a lawyer confirms DNA tests are necessary. After a protracted discussion in which Julia has repeatedly emphasized the difficulty of the task, in data extract 11 below Ismail interrupts Julia to ask how they can proceed:

*Data extract 11*

	Speaker	Original language
1	I	[so how can we do?
2	J	[but:
3	J	well- (.) >you know< you can <u>try</u> (.) you would <u>have</u> to get the DNA sorted out first
4	I	yeah that's fine

- 5 J because there's no: there's no point in proceeding without that, I think
- 6 D right
- 7 J there's no: (.) um- because we don't have any record [(.) um
- 8 I [so how can we do the DNA?
- 9 J (...) well if you've (.) spoken >to the Red Cross< already (.) and it's something that they're willing t- to find funding for (.) through, a different organization to try and get those tests done (.) then get in contact with them and see if that's possible (.)
- 10 J you can tell them that that o- once it's done I I am happy to help you make an applica↑tion
- 11 I so we need to go: (.) Red Cross to tell the- (.) the situation
- 12 J yeah
- 13 I and then how about the (.) brother and sister in there (.) the DNA? (.) how can we go?
- 14 J w↓ell (.) .....

Meeting seven transcript, 16:48 – 17:38

In this extract, Ismail uses questioning to refocus the discussion back on to his own goal: finding out what needs to be done to get his younger siblings to the UK. He starts with an action-focused question at line 1 'so how can we do?' forcing Julia to focus in on needed actions, and in particular to confirm at lines 3 and 5 that a DNA test is definitely needed. The youth worker David (generally a passive participant in the meeting) unusually acknowledges this information verbally with 'right' at line 6, because this confirmation, coupled with the offer of assistance that Julia makes at line 10, is the key to securing the Red Cross's help with funding for the tests. Julia starts at line 7 to explain again that DNA testing is needed because there are no records anywhere of the siblings, but Ismail interrupts her at line 8, again refocusing Julia on the action point of how they can get the DNA tests. Julia responds, and at line 11 Ismail reformulates (Deppermann, 2011) her advice to confirm his understanding of it. Ismail also however wants some practical explanation of how the DNA testing is done across countries, and at line 13 his next question focuses on how (in practical terms) DNA tests can be carried out when his siblings are still in Africa. This phase of the meeting continues as a series of lawyer explanations punctuated by client questions, until Ismail understands how the DNA tests are done, and that once they have been obtained, Julia can help him to put together an application to UKVI. This extract illustrates Ismail the client using the linguistic resource of focused questions to direct the topic of advice, illustrating how communicative resources (RQ1.1) can also be used by clients for interactional control (RQ1.3) in certain phases of legal advice.

**Phase 6 – Analysis.** This phase is marked by a definite shift in discourse type, away from the lawyer monologue of advice in phase 5 and into question-and-answer sequences. The means of communication used (RQ1.1) remains predominantly speech; advice continues to be given, but is

communicated through the different interactional format of question responses. As seen above, this different interactional format brings with it shifts in the balance of interactional control.

With regard to the subsidiary RQ1.3 about participant agency in interaction, this is the first phase of the meeting where the client is able to ask questions, and both data extracts show the clients using questions to initiate a topic change to discuss matters of concern to them. Data extract 10 also shows the interpreter exercising her own agency to intervene in the conversation to improve the communication, as discussed above; this is considered good practice in community interpreting (Corsellis, 2008). A remarkable degree of client control, in terms of the client managing the topic of talk through interruptions and questioning, is evident in Meeting 7 (data extract 11) compared with other meetings: this meeting with Ismail consequently stands out in the data set. The dynamic may be related to Ismail's personality, or also/alternatively his youth, but it may also be an expression of the close relationship that he and Julia shared when he himself applied for asylum as a minor some years previously, a relationship that serves as important contextual background (subsidiary RQ1.2) for the present interaction.

Finally, and also in relation to the contexts that frame and impact on the interaction (RQ1.2), in phase 6 clients are seen bringing in new contexts through questioning: in these data extracts, both clients bring up the DNA testing procedure, and the precarious financial situation of many refugees is another context linked to this that is commented on by the participants, with both clients raising concerns about funding.

### **Phase 7: client decision**

Depending on the situation and the advice offered, clients may have to take a decision about what to do next. In some meetings this never arises, but where it does, the decision may be taken during the meeting. Where this occurred in the data, in Meetings 6 and 8 the decision was straightforward and was taken very quickly in the course of questions and responses, blending into phase 6. However, in Meeting 1 the decision facing the client was more complex, and the interaction surrounding it shifted into a different interactional pattern, which I have labelled **phase 7 – client decision**. Khalid has to decide between three options: (1) doing nothing, and leaving his family in Sudan (described by Julia as 'not really an option', Meeting one transcript, 09:08); (2) filing an appeal against the visa refusal decisions for all six members of his family, which would cost £840 and result in a delay of anything up to a year before the appeal is heard; or (3) making fresh applications for his wife and three youngest children, whilst filing an appeal only in respect of the two eldest children, which would only cost £240 but which could result in the two eldest being left behind in Sudan awaiting an appeal hearing if the rest of the family are granted



visas (requiring travel to the UK within one month). In data extract 12, having explained the options, Julia puts the decision to Khalid:

*Data extract 12*

	Speaker	Original language	Translation to English
1	J	okay? (..) SO: (..) it's up to <u>you</u>	
2	Int A	إذا فالقرار لك	so, the decision is yours
3	J	(...) um (..) what, I mean what- (..) what would you <u>like</u> to do? (..) apart from (..) go and bring your family ((exhales with laughing tone)) right now	
4	Int A	@ماذا تريد أن تفعل الآن	@ what do you want to do now?
5	K	@@	
6	Int A	بغض النظر عن إحضار عائلتك هنا	regardless bringing your family here?
7	K	الخيارات كلها صعبة بالنسبة لي	all options are difficult for me
8	Int A	all the options are very difficult for me	
9	K	كل الخيارات صعبة	all of them are not easy
10	Int A	all the options	
11	K	إحضاري لجزء من الأولاد، إنه صعب علي وكذلك تركهم جميعاً هناك	bringing only part of the family is tough for me and even leaving them all there
12	Int A	um, you can- (..) um, er bringing a part of them is so difficult for me (..) leaving everybody there is also difficult for me	
13	J	°I know. It's it's° (..) I wish it's something that you didn't have to consider, um	
14	Int A	كنت أتمنى بأن هذا الشيء لا يحصل	I wish that did not happen
15	K	عارف	I know

Meeting one transcript, 21:43 – 22:47

Julia marks the transition into asking Khalid for a decision with a pause, and the word 'so' with a slight raising of volume at line 1, then indicating with the words 'it's up to you' that she is handing over to Khalid. At line 3, she asks what he would like to do, acknowledging with a slightly ironic laughing tone that the literal answer to this question is not available to him as an option. Both the interpreter and Khalid respond to this use of humour with soft laughter, but in the speaking turn which has been handed to him, Khalid responds seriously at lines 7 to 12 to express how difficult the decision is for him. Julia empathises in line 13, softening her tone in a use of prosody for expression (a type of linguistic resource, RQ1.1), and pausing to choose appropriate words to convey to Khalid her awareness of this difficulty.

Over ten minutes of dialogue follows, in which the options are further discussed and emotional reactions to them aired, before Julia eventually seeks to end this phase by asking Khalid if he wants some time to consider:

*Data extract 13*

	Speaker	Original language	Translation to English
1	J	so do you want to (.) do you want a little bit of time to think about it? to talk it over with your family before you make a decision?	
2	Int A	هل تحتاج إلى بعضاً من الوقت للتفكير والتكلم مع العائلة بخصوص القرارات؟	do you need some time to talk to the family and think about the decisions?
3	K	°okay°	
4	J	or, er it's up to <u>you</u> (.) or- >you know< we can book you (.) another appointment and we could proceed with your chosen route <u>now</u> (.) but it's up t- you know if you want a few days just to think about it (.) talk it over (.) erm: and then decide that's fine I- it's (.) <u>I'm</u> not pressuring you i- i- you know in any way (..) we <u>do</u> have a >little bit of< time, so you have (.) you know you have (.) some time to, to think	
5	Int A	الآن بإستطاعتك تحديد قرارك أو أنه مازال لدينا وقت ونقوم بتحديد وقت آخر	now, you can determine your decision or we can set another appointment
6	K	لا مشكلة، إحنا نقدم لبقية الأولاد ونعمل طعن للولدين الكبار	no problem, let's apply for the other children and appeal for the eldest ones
7	Int A	هل هذا قرارك؟	is that your decision?
8	K	نعم	yes
9	Int A	mmm so er there's no problem okay I'll um (.) um I would like you to apply for the rest of the family and (.) er for fresh application and appeal for the two [(.) um older children	
10	J	[okay (.) okay that's fine.	

Meeting one transcript, 33:20 – 34:36

Julia's topic-directing question at the start of this data extract demonstrates (in relation to RQ1.3) that although Khalid has in this phase been accorded a lot of interactional space to express himself, Julia remains in overall control of the discourse. In line 4 Julia stresses that she is not influencing or pressurising Khalid to take a decision either way – but the content of her speaking turn is only partially interpreted by the interpreter, and with some inaccuracy, at line 5, such that this intended message is not communicated in Arabic. This may be because Julia's speaking turn is quite long and unstructured, compared to her usual interactional style when engaged in

interpreted interaction - dialogue interpreting requires short speaking turns for the most accurate renderings to be produced (Corsellis, 2008). In any case, this seems not to matter as Khalid has reached a decision and communicates this at line 6, which the interpreter confirms directly with him at line 7 before translating it into English at line 9.

**Phase 7 – Analysis.** The whole ‘decision-making’ phase in Meeting 1 is dispersed over around thirteen minutes. The discourse type fluidly shifts between a phase 6 discourse type of questions and responses comprising advice, and a different, phase 7 discourse type that is emotionally-oriented, with client turns-at-talk involving the expression of thoughts and emotions around the decision to be taken, and lawyer turns-at-talk expressing empathy and affiliation with the client’s position, and making practical observations about the decision-making process (such as regarding timing) to assist the client.

In this phase 7, with regard to subsidiary RQ1.1 interactants notably use linguistic resources to communicate and express emotional reactions, such as in the lawyer’s talk where prosodic signals serving relational purposes can be observed (softening of the voice with ‘I know’ at line 13 of data extract 12; emphasis on ‘I’m not pressuring you’ at line 4 of data extract 13). Using words to express emotional standpoints sometimes has consequences for the effectiveness of interpreting in this phase; where relationally-oriented turns at talk are longer or less structured, they are not always fully or accurately interpreted, and some or all of the relational meaning may consequently be lost. Another noticeable shift in phase 7 is around interactional agency (RQ1.3): the client is explicitly positioned as the decision maker. Although Julia remains subtly in control of the general direction of talk, she uses her control to structure the talk to support Khalid, allowing him the time and space to think about, talk over, and make the decision, reflecting the ‘participatory’ style of interaction advocated by Binder, Bergman and Price (1991).

#### **Phase 8: advice on the next steps**

Phase 8 is the third of the three principal phases occurring in all meetings in the data set. It is in some ways similar to phase 5 (advice on the situation), in that Julia is advising the client. However, the focus of the advice is slightly different: administrative matters and practical actions are the general topics of interaction. Documents are frequently referred to or drawn upon in talk in this phase. As with phases 5 and 6, sometimes the advice phase 8 merges with the subsequent questioning phase 9, demonstrating interactional hybridity (Sarangi, 2000).

Data extract 14 below from Meeting 2 with Ahmed illustrates a document being talked about, and being used as a means of imparting information about the administrative processes and as a referential object (tool) in talk. Julia gives Ahmed a hard copy of a hand-out prepared by the

advice service and translated into Arabic for use in workshop-style information sessions on the family reunion process:

*Data extract 14*

	Speaker	Original language	Translation to English
1	J	okay? (.) um we (..) provide um (.) support during a- a workshop scenario (.) um as well (.) and I've printed the materials for that: in Arabic <u>for</u> you (.) to have a read through	
2	Int A	mmm	
3	Int A	كما أننا نقدم (..) um, um	we also provide (..) um, um
4	Int A	((interrupting her Arabic talk)) is it information (.) workshops?	
5	J	yeah, yeah	
6	Int A	ورشات عمل تتحدث عن هذه المعلومات وهي قامت بطباعة ذلك المحتوى باللغة العربية لتطلع على ذلك.	workshops about this information; I have printed out the content in Arabic for you to read
7	A	mmm	
8	J	okay? so it explains (.) here (.) about the <u>rules</u>	
9	Int A	هنا على سبيل المثال تتكلم عن القوانين	here, for example, it talks about rules
10	A	mmm	
11	J	(2) ((the sound of papers being shuffled around can be heard)) the process <u>here</u>	
12	Int A	عن العملية هنا	here, about the process
13	A	mmm	
14	J	°okay? ° (.) um it tells you how to complete (.) the online application if you want to do that your↑self	
15	Int A	تتحدث عن بنفسكonline كيفية تعبئة الطلب	it talks about how to fill in the online application by yourself
16	J	and gives you um (.) a- a rough idea about the documents that you need to sub↓mit	
17	Int A	وتعطيك فكرة عامة عن كافة المستندات التي يجب تقديمها.	and it gives you general idea about the documents that you need to submit
18	A	okay	

Meeting two transcript, 12:33 – 13:48

In this extract, multimodal communication is in operation. Julia first refers to the workshop materials as the subject of her talk at line 1. She then uses the hard copy document, which is on

the table in front of Julia and Ahmed, as a tool to support her talk, turning the pages as she talks and using 'here' whilst physically showing Ahmed the relevant pages she is talking about at lines 8 and 11. At the same time as the verbal and non-verbal interaction is going on, Ahmed is reading the sections of the document he is shown, with some information being communicated to him through the document itself as the means of communication. The combined purpose of the talk and the passing over of documentary information is to inform the client about the family reunion application process and its requirements, in preparation for making an application once all the necessary documents are ready. The document performs the functions of subject of communication, means of communication, and tool/object of communication (a physical document being used as an artefact to support the talk) simultaneously in an example of a 'text event' (Linell, 2010, p. 54) in the interaction, a happening relevant to subsidiary RQ1.1 that occurs across the data. Moyer (2011) has noted how in the context of a doctor's surgery in Catalonia, institutional efforts to cater for their multilingual clientele by producing written translations of key documents were ineffective, because the written languages provided were standard varieties of 'nation-state languages' (p. 1211, citing from Barth, 2000) that patients, who were often uneducated or came from linguistic or ethnic minorities in their own countries, were not actually literate in. This question of inappropriate institutional language ideologies being drawn on in institutional settings could be an issue in the legal advice setting also, but was not problematic in this instance; Ahmed was able to read the Modern Standard Arabic of the workshop materials. I examine how documents are an integral feature in legal advice talk more closely in Chapter Seven.

Pressure of work is always an issue for Julia, and when arranging next meetings or actions with clients, she often has to explain that they may need to wait a little while. Data extract 15 below from Meeting 8 with Mebratu illustrates Julia making use of humour as part of a relational move in phase 8 of the meeting. Julia has asked if Mebratu could fill out the application form online to save time, for her to then check, and she makes a joke about coping with her own workload in order to repair the face threat of asking the client to do work (Brown & Levinson, 1987):

#### *Data extract 15*

	<b>Speaker</b>	<b>Original language</b>
1	J	if it was- you know (.) if I could <u>clone</u> myself (.)
2	M	@
3	J	((laughing tone)) and have @someone <u>else-</u> (.) and have double
4	M	[@@
5	J	[the capacity then you know I- I would do it ↑instantly (.) but unfortunately I can't (.) um (2)
6	M	is there a possibility of cloning?
7	R	@@@

- 8 M [@@  
9 J [well: (.) I think >the only time it's< been successfully done is with  
sheep so (.) um  
10 M @@  
11 J I think ((laughing tone)) human cloning is is perhaps some way off  
@  
12 M some movies [anyway @@  
13 J [YEAH YEAH we- just movies ↓yeah (.) I'm not quite  
ready to be an alien just yet, um (...)  
14 M, R @@

Meeting eight transcript, 21:04 – 21:39

At line 1 Julia introduces the humorous remark about cloning herself, to which Mebratu immediately responds with a laugh at line 2. Julia closes the remark at lines 3 and 5, and after a short silent pause, Mebratu reciprocates in the spirit of it, asking if there is any possibility of cloning (so that Julia can complete the fresh application sooner). Everyone in the room (myself included) is laughing now and the sequence finishes with Mebratu introducing a reference to science fiction films at line 12, and Julia quipping at line 13 that she is 'not quite ready to be an alien just yet'. As also illustrated in data extract 8 above, Julia regularly uses humour to lighten the mood and develop positive relations with clients in the advice-giving interactions. The comparison of the two extracts 8 and 15 shows, however, that Julia uses more or less complex language in her joke-telling, according to the English linguistic resources of her client, another example of the exercise of linguistic accommodation relevant to subsidiary RQ1.1.

A final example of phase 8 advice-giving comes from Meeting 4 with Khalid. In this meeting, Khalid and the interpreter have been reading through a witness statement from Khalid which was prepared during and after Meeting 3; this is to be submitted as part of the fresh applications for visas for Khalid's wife and younger children. After the witness statement work has finished, the meeting moves into a period of legal advice activity:

#### *Data extract 16*

	Speaker	Original language	Translation to English
1	J	↓right (.) so the <u>next</u> step (.) is: for me: to um (...) finish the: applicat↑ions (.) for every↑one (2) um (3) it's- probably going to take me (.) a few days (.) and possibly early next week before I can ↑do that (.) just because I'm out of the office (.) a fair bit this week (.) um (...) so I will <u>try</u> and <get it done> as quickly as I <u>can</u> (.) but now that the statement is done (..) um (.) I can do the applications (...) um: separately (.) um and I'll let him know if there's any (...) is↓sues	

2	Int B	الحمد لله، لقد أكلمنا إفادتك ويتبقى تقديم الطلبات مرة أخرى. هذه العملية سوف تستغرق بعض الوقت لأنني هذا الأسبوع سوف أكون في إجازة. غير موجودة في المكتب. لذا هنالك احتمال إن شاء الله للأسبوع المقبل. إذا احتجت أي شيء أو أي سؤال (.) سوف أتصل بك.	thanks to God (Allah), we have completed your statement and we need to submit the applications again. This process will take few days as I am off this week, I will be on leave. So, it is possible, God willing (Inshallah), to do it next week. If I need anything or any question (.) I will phone you
3	K	°okay°	
4	Int B	okay? (..) okay	
5	J	°okay° alright?	
6	K	yes	

Meeting four transcript, 26:43 – 27:58

Julia first verbally keys the change of footing with the words 'right, so' at line 1, and then explains the next actions and the timetable to Khalid, noting that she will be 'out of the office' a lot this week. Interpreting this at line 2, the interpreter introduces a couple of culturally-specific idioms, 'الحمد لله', 'thanks to God (Allah)' and 'إن شاء الله', 'God willing (Inshallah)', at line 2. The interpreter probably does this in order to produce a natural-sounding interpretation; such are the close ties between the Islamic faith and the Arabic language, that these expressions are part of the languaculture (Risager, 2006) of Arabic-speaking Muslims and it would sound unnatural to talk of tasks accomplished, or future actions, without using them. On the other hand, the interpreter's interpretation at line 2 of Julia's expression 'out of the office' as being 'on leave' is indicative of a lack of languacultural knowledge about the context of British working practices; the expression can be used to refer to being on leave, but it can equally refer to being engaged in work but in another location (which Julia regularly does). What Julia actually means is pragmatically unclear, but the impression is given to the client through the interpreter's rendering that she is on holiday all week. The impact of this communicative error is not clear from the data. This extract illustrates the complexities that can arise when culturally-specific terms (languaculture) arise in interpreted talk, an issue that was discussed in Chapter Two (see section 2.4.3).

### **Phase 8 – Analysis.**

The discourse type used in phase 8 (advice on next steps) is remarkably similar to that used in phase 5 (advice on the situation) in terms of interactional organization – the lawyer is the main speaker, controlling the shift into the phase and the topic, and short turn consecutive interpreting is used where needed. However, advice concerns more practical and administrative topics than

those seen in phase 5. Often this involves drawing on relevant documentation as a means of communication (relevant to RQ1.1), or discussing documentation, and making arrangements for the carrying out of tasks by lawyer or client. With regard to RQ1.3, the lawyer retains control over interaction in this phase 8, as with phase 5 interaction.

In data extract 16, an interplay between the contexts framing the interaction (RQ1.2) and the communicative resources and practices used (RQ1.1) was evident in two ways. Firstly, specific languacultural resources were used to translate talk about actions into Arabic, exemplifying the bringing in of the client's and interpreter's Muslim faith (langua)cultural contexts through linguistic expression. Secondly, the phrase 'out of the office', was not fully interpreted nor followed up with questions in order to clarify the pragmatic meaning, evidencing a lack of contextual knowledge by the interpreter of this aspect of British workplace languaculture.

### Phase 9: further questions (from client or lawyer)

Either party may need more information about the next steps, and phase 9 consists of questions and answers to address these information gaps. Phase 8 sometimes blends into this following phase.

As an example of questions arising at this later phase 9 of the meeting, data extract 17 below is taken from the legal advice activity stage of Meeting 3 with Khalid (also attended by Steve). Julia has advised Khalid that it would be a good idea to get in touch with his local MP to ask them to complain to UKVI about his case. Julia and Steve have then had a conversation in English about who the correct MP is, and when would be the best time to approach them, which was not consecutively interpreted but rather briefly summarized for Khalid by the interpreter. Khalid has a question about the timing, which he asks in the following extract 17:

#### *Data extract 17*

	Speaker	Original language	Translation to English
1	K	بمعنى أنها سوف تنتظر حتى إقتراب موعد المحكمة؟	is she going to wait the approach of the court appointment?
2	Int B	so (.) we have to wait until we get (.) er er: an <u>answer</u> from the court about er appeal (.) to- and after that we are going to see the MP or: er	
3	J	no (.) I- what I would do is when the fresh applications are <u>ready</u> (..) which I'm hoping will be <u>soon</u> (..) um: (.) when we <u>submit</u> them (.) we can give all the <u>new</u> reference numbers to the MP (..) and and the app- by	



		then we should also have notification of the court (.) that th- the appeal's pending (.) give all of <u>that</u> to the MP and ask them to- to write a letter (.) um (..) they <u>may</u> not write what they would probably term a letter of support (..) <u>but</u> they can- even if they just declare an <u>interest</u> in the ca:se that gets <u>logged</u>	
4	S	mmm	
5	Int B	سوف نقوم بعمل طلب جديد وعندما استلم قبول للإستئناف حيث أننا سوف نحصل على أرقام مرجعية جديدة، سنقوم بعد ذلك بإرفاقهم جميعاً لعضو البرلمان ونحاول أن نجعله يكتب رسالة لوزارة الداخلية. أنا لا أقول أن ذلك سوف يؤثر 100% ولكن قد ينظرون للقضية	we will apply fresh application and wait for accepting the appeal because we will receive new reference numbers. After that, we all attach them all to the MP and try to make him write a letter to the Home Office. I will not say that this will be 100% influential, but they might reconsider the case

Meeting three transcript, 57:07 – 58:33

This exchange arises because it is clear to Khalid from the preceding discussions that Julia has given Steve advice about the best timing to approach the MP, but this has not been communicated directly to Khalid. Khalid therefore asks a question about this in line 1. In her response at line 3, Julia deviates from her usual practice of using short turns at talk when interaction is interpreted, giving a long and complex response. This may be because in the immediately preceding sequence, she and Steve were engaged in English-language interaction that was not consecutively interpreted, and she has temporarily fallen out of the habit. Whatever the reason, the length of her speaking turn and complexity of her response led to some loss of accuracy in interpreting at line 5 – for example, ‘letter of support’ is not translated, and the fact that any MP enquiry ‘gets logged’ is glossed as ‘they might reconsider the case’. Similarly to data extract 13 above in which expressing emotional standpoints led to longer speaking turns, this further example illustrates that in interactional phases characterised by a question and answer discourse type it can also be comparatively easy for L1 speakers to slip out of the short speaking turns that are so important for successful interpreting – this happens from time to time in the data and is a point of relevance to subsidiary RQ1.1.

Data extract 18, from Meeting 7 with Ismail, illustrates the active participation of an accompanying support worker in this questioning phase. In meetings I observed, any support worker present was often silent for extended periods, but at key times and particularly during the

question phases 6 and 9, would sometimes speak up to ask questions on behalf of the client or to assist in clarifying something. The extract below towards the end of the meeting with Ismail, shows the youth worker David clarifying the purpose of Ismail's question:

*Data extract 18*

	Speaker	Original language
1	I	so if he: (.) they expect the case if he (.) they <say <u>yes</u> > (.) so how can it <u>be</u> after that?
2	J	(2) if they are (3) <u>gran</u> ↓ted (1) um: (..) if the application <u>succeeds</u> then they'd be: (..) granted entry
3	I	(..) right (...)
4	J	[<so they'd be given-> °yeah°
5	D	[be <u>allowed</u> to come but you'd have to (.)
6	D	funding would be down to (.) [Ismail again (.) to-
7	J	[yeah (.) travel and things
8	J	and AGAIN THE RED Cross can sometimes help with with th- the actual travel costs

Meeting seven transcript, 32:59 – 33:31

At line 1, Ismail asks Julia what will happen if they manage to get visa applications for his younger siblings granted. Ismail uses the wrong vocabulary item here ('expect' instead of 'accept'), but mitigates this by rephrasing his expression more simply as 'if...they say yes' (a strategy for achieving understanding, Bremer et al., 1996). Julia takes considerable time over her answer at line 2, indicating that she is perhaps unsure about the purpose of the question, and the noncommittal feedback Ismail gives at line 3 to her answer shows that it may not be the answer he was anticipating. In the next interactional turn at lines 4-5, David speaks over Julia's attempt to reformulate her answer, responding to what he suspects is Ismail's real question: how can Ismail, in practical terms, get his younger siblings to the UK? David explains that funding the siblings' travel would be Ismail's responsibility, even though the siblings would be allowed to enter legally. David voicing the word 'funding' at line 6 functions as a contextualization cue for Julia, through which she understands the pragmatic meaning of Ismail's question. At lines 7 and 8 she interrupts the end of David's sentence and raises her voice to regain the right to speak and advise that the Red Cross can sometimes assist refugees with travel costs.

**Phase 9 – Analysis.** The discourse type in phase 9 comprises questions and answers, as with phase 6. However, and in contrast to phase 6, the focus of talk is generally administrative or practical, and the speaking roles of questioner and responder may shift as gaps in information provision are identified and addressed by each of the parties in this pre-final phase. Of relevance for the subsidiary RQ1.3 about how control and agency are exercised in talk, agency and control are fairly evenly distributed in this phase: in both extracts presented, the clients ask questions in

order to clarify or clear up confusion, but in other data from this phase of legal advice interaction not included for reasons of space, Julia asks the client questions to obtain information needed to progress matters or advise further, and support workers ask Julia questions on behalf of the client (as was described in the lead-in to data extract 17). David's intervention in the meeting in data extract 18 showed him, in relation to subsidiary RQ1.2, drawing on his discursive resources (contextual knowledge) about refugee family reunion processes, and about the client's concerns, to clarify, explain, and further understanding. With the priority in this phase on answering any outstanding questions before the meeting closes, everyone tries to work together to address any gaps in shared understanding.

#### **Phase 10: other action by lawyer**

Having dealt with any further questions in phase 9, Julia may need to perform some final actions before the meeting ends. I do not include transcript data for reasons of space, but actions include printing off the English or Arabic language family reunion workshop materials (Meetings 2, 5 and 8) to give to clients; printing off contact information for the client's local MP (Meeting 3) for the client to take away; and taking copies of documents that the client has brought in, for the advice service's files or so that Julia can progress applications in the client's absence (Meetings 1, 6, 8). Most of the actions in Phase 10 involve documentation, demonstrating again in relation to RQ1.1 the importance of documentation as a means of communication in legal tasks and processes, and the role that documents play in intertextually connecting different events in a legal matter across temporal distance – a role that is examined in detail in Chapter Six.

#### **Phase 11: closing and farewells**

Having dealt with any required actions, the final phase of legal advice activity, phase 11, involves closing the meeting and exchanging farewell greetings. These final exchanges often include summaries of future action points, voiced normally by Julia, and sometimes also verbally confirmed by clients. For example, at the end of Meeting 8 with Mebratu, Julia reminds him that he needs to get a copy of the first visa application for his wife from his previous lawyers and then make another appointment, and Mebratu confirms by reformulating this: 'once I get the (...) the application form, I'll contact you' (Meeting eight transcript, 40:20).

In many meetings, the closing phase includes expressions of gratitude or thanks. Data extract 19, from the end of Meeting 1 with Khalid, illustrates how interpreting such closing greetings can be problematic:

#### *Data extract 19*

	Speaker	Original language	Translation to English
1	K	أنا مقدر شعورها (xxxx)	I appreciate her feeling (xxxx)
2	Int A	شعور من؟	Feeling of whom?
3	K	المحاميه، لانها تحاول جاهدة مساعدتي ولكن هذه إرادة الله أشكرها جزيلاً	The lawyer, she exerts her best to help me, but this is God's (Allah's) will. I thank her very much.
4	Int A	yeah I appreciate your your feelings er towards er my <u>case</u> and (.) that er (.) um my children are not <u>with</u> me (.) er: but I don't have- er we don't have anything to do (.) um: I appreciate your (.) your feelings and your <u>effort</u>	
5	J	°yeah (.) okay° well we'll continue that and we'll double them if we can (.) um	

Meeting one transcript, 72:10 – 72:47

Khalid expresses his gratitude for Julia's efforts to help him at lines 1 and 3, and reflecting his own religious and cultural beliefs and practices acknowledges as part of this that the situation is ascribable to إرادة الله , 'the will of God (Allah)' (and by implication that it is Allah who will determine the outcome). This is another example of languaculture (RQ1.1; RQ1.2) appearing in the data in the form of idiom, in that acknowledging this situation in Arabic without acknowledging Allah's role in it would sound odd to most Muslim Arabic speakers. The interpreter, aware that in English references to 'God's will' are not part of contemporary everyday idioms, renders this phrase at line 4 as 'we don't have anything to do', which sounds somewhat odd to the English-speaker's ear. Thomas (1983, p. 101) calls this 'pragmalinguistic transfer', or 'the inappropriate transfer of speech act strategies from one language to another, or the transferring from the mother tongue to the target language of utterances which are semantically/syntactically equivalent, but which, because of different 'interpretive bias', tend to convey a different pragmatic force in the target language.' Julia however, in another example of the exercise of communicative leniency (Meeuwis, 1994), glosses over this oddness and instead chooses at line 5 to acknowledge the compliment given in the rest of Khalid's comment, assuring him of her continuing support. Here, it can be noted that due to the interpreter's lexical choices in rendering Khalid's words into English, the cultural context of the Islamic faith that is contextually cued by Khalid's Arabic words is not translated over into the English conversational floor, with a loss of some of the meaning carried by the original phrase. This is an inevitable part of translation across languages (Kramsch, 1998).

**Phase 11 – Analysis.** The data reveal how the final phase 11 of legal advice activity involves closing moves and farewell greetings. Sometimes the closing exchange involves confirmation of action points by lawyer and/or client, in an agentive interactional strategy aimed at achieving mutual understanding and agreement. The exchange will also often involve thanks and closing greetings; here, issues can surface for interpreting as cultural idioms (languaculture) are common in these more formulaic interactional sequences, requiring flexibility by interpreter and hearer in their handling. This can often result in relevant contexts cued by the original language not being transferred over and signalled in the translated speech, and a consequent loss of meaning (RQ1.1, RQ1.2).

### **5.2.3 Discussion of analysis of phases of legal advice-giving activity**

In the analysis in this section 5.2, I have shown how in the eight meetings in the refugee family reunion legal advice meeting data, legal advice communication takes place interculturally and multilingually using a range of communicative resources and drawing on a number of different contexts, but always supported and guided by the discursive structuring of the legal advice communicative activity type.

The communicative activity type of legal advice-giving is relatively stable across those meetings. This CAT exhibits set ‘framing dimensions’ (Linell, 2010, p. 43), discussed in section 5.2.1, and is divisible into a ‘phase structure’ (Linell, 2010, p. 43) of eleven phases, listed in Table 5.3 below. Three of these are principal phases (highlighted in bold) comprising key interactional phases exhibited in every meeting in the data set (except for Meetings 3 and 4, for reasons mentioned at the start of section 5.2.2), whereas the other eight phases are selectively evident across different meetings. I have illustrated how each phase has its own communicative sub-purpose, which influences (or alternatively, is brought about by) the nature of the communication: each phase is characterized by a certain discourse type (Sarangi, 2000), or in phase 2, a predictable mix of discourse types, and similarity in discourse type is evident between different phases serving similar interactional functions. This reflects Linell’s (2010) view of CATs being made up of smaller communicative projects, and Sarangi’s (2000) conception of discourse types varying across activity types, and is summarized in Table 5.3.

**Table 5.3 – Interactional phases and discourse types within the refugee family reunion legal advice-giving communicative activity type**

Phase		Key characteristics of discourse type in the phase	Other characteristics of the data relevant to subsidiary research questions RQ1.1: communicative resources used; RQ1.2: relevant contexts; and RQ1.3: control and agency
1.	Greetings and introductions	<ul style="list-style-type: none"> <li>- lawyer leads the talk and controls topic (RQ1.3)</li> <li>- lawyer controls shift into next phase (RQ1.3)</li> </ul>	<ul style="list-style-type: none"> <li>- interpreted interaction: two-way consecutive interpretation (RQ1.1)</li> <li>- prior relationships may mean no need for introductions (RQ1.2)</li> </ul>
2.	<b>Information-gathering (“interviewing”)</b>	<ul style="list-style-type: none"> <li>- lawyer in overall control of topic and interactional space (RQ1.3)</li> <li>- documents used for information transfer where case has prior history (silence during reading time) (RQ1.1; RQ1.2)</li> </ul> <p>AND/OR</p> <ul style="list-style-type: none"> <li>- lawyer invites client to give narrative (RQ1.1)</li> </ul> <p>AND/OR</p> <ul style="list-style-type: none"> <li>- lawyer asks closed questions, client answers, use of IRF sequences to gather precise information (RQ1.1)</li> </ul> <p>AND/OR</p> <ul style="list-style-type: none"> <li>- client volunteers information unprompted (RQ1.1, RQ1.3)</li> </ul> <p>- sometimes blends into initial advice (phase 3)</p>	<ul style="list-style-type: none"> <li>- interpreted interaction: two-way consecutive interpretation (RQ1.1)</li> <li>- linguistic negotiation of understanding strategies: repetition of key phrases in feedback; acknowledgement tokens; repair of misunderstandings; formulations (RQ1.1)</li> <li>- where cultural/linguistic gap is greater, all parties using greater use of communicative strategies to achieve understanding (e.g. explicit checks of information that could have been left implicit, comprehension checks) (RQ1.1; RQ1.3)</li> <li>- exercise of communicative leniency by L1 speakers in favour of L2 speakers (RQ1.1)</li> <li>- where prior relationship exists, this drawn on to encourage disclosure and frame narrative, and in use of informal register in L1 interaction (RQ1.1; RQ1.2)</li> <li>- style and register of language adjusted to reflect linguistic resources and nature of relationships (RQ1.1, RQ1.2)]</li> </ul>
3.	[Possibly] Tentative initial advice	<ul style="list-style-type: none"> <li>- sometimes blends with information-gathering (phase 2)</li> </ul> <p>AS FOR PHASE 5</p>	<ul style="list-style-type: none"> <li>- linguistic accommodation strategies used to make advice understandable: pauses, slow speech, selection of straightforward vocabulary; repetition and paraphrasing; avoiding deictic language (RQ1.1)</li> </ul>

Phase		Key characteristics of discourse type in the phase	Other characteristics of the data relevant to subsidiary research questions RQ1.1: communicative resources used; RQ1.2: relevant contexts; and RQ1.3: control and agency
4.	[Possibly] further information-gathering	AS FOR PHASE 2	<ul style="list-style-type: none"> <li>- client agency as important to bring in needed information (RQ1.3)</li> <li>- client awareness of institutional requirements of evidence, lawyer awareness of other cultural contexts show learned cultural/discursive resources (RQ1.1, RQ1.2)</li> <li>- lawyer drawing on learned knowledge of client's cultural context for relational work (RQ1.2)</li> </ul>
5.	<b>Advice on the situation ("counselling")</b>	<ul style="list-style-type: none"> <li>- lawyer controls shift into this phase (RQ1.3)</li> <li>- lawyer controls the topic (RQ1.3)</li> <li>- monologue-style interaction: lawyer as only main speaker (author/principal) (RQ1.1, RQ1.3)</li> <li>- drawing on documentation in giving advice (RQ1.1, RQ1.2)</li> <li>- use of evaluative language (incl. paralinguage) and self-positioning by lawyer in relational work with client in advice (RQ1.1, RQ1.3)</li> <li>- use of analogy and humour in explanation to client within advice, also serving relational purposes (RQ1.1, RQ1.2, RQ1.3)</li> </ul>	<ul style="list-style-type: none"> <li>- interpreted interaction: two-way consecutive interpretation, interpreter speaking as animator of lawyer's words (RQ1.1)</li> <li>- lack of linguistic accommodation linked to assumptions of others' contextual knowledge in interactions with familiar others (RQ1.1, RQ1.2)</li> <li>- lack of contextual knowledge causing difficulties with interpretation (RQ1.1, RQ1.2)</li> <li>- failure of communication where complexity of advice needed/client linguistic resources misunderstood in advance (RQ1.1)</li> </ul>
6.	[Possibly] Client questions and responses	<ul style="list-style-type: none"> <li>- blends with advice-giving (phase 5)</li> <li>- client takes control of topic through questions (RQ1.3)</li> <li>- questions from client, answers from lawyer: shift in interactional pattern but still a continuation of advice (RQ1.1)</li> </ul>	<ul style="list-style-type: none"> <li>- interpreted interaction: two-way consecutive interpretation (RQ1.1)</li> <li>- interpreter exercising agency to intervene and improve quality of the communication (RQ1.1, RQ1.3)</li> <li>- forceful interactional style (interruptions, focusing questions) of existing clients may be due to close relationship (RQ1.1, RQ1.3)</li> </ul>

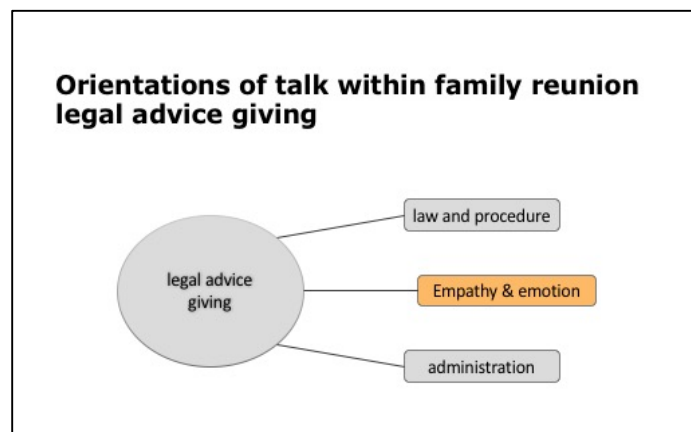
Phase		Key characteristics of discourse type in the phase	Other characteristics of the data relevant to subsidiary research questions RQ1.1: communicative resources used; RQ1.2: relevant contexts; and RQ1.3: control and agency
7.	[Possibly] Client decision	<ul style="list-style-type: none"> <li>- some overlap with client questions (phase 6)</li> <li>- lawyer in control of the talk but allowing time for client talk (RQ1.3)</li> <li>- client talk: expression of thoughts and emotions around the decision (RQ1.1, RQ1.3)</li> <li>- lawyer talk: empathic and relational statements, and practical statements to support decision (RQ1.1)</li> <li>- decision making role reserved for client only (RQ1.3)</li> </ul>	<ul style="list-style-type: none"> <li>- interpreted interaction: generally, two-way consecutive interpretation; however in lawyer's relational talk, turns longer and less structured and not fully interpreted (RQ1.1)</li> <li>- lawyer's use of paralanguage (soft tones etc) and empathic statements to express empathy with the client (RQ1.1)</li> <li>- emotionally-oriented talk</li> </ul>
8.	<b>Advice on the next steps</b>	AS FOR PHASE 5, BUT with focus on administrative matters and practical actions	<ul style="list-style-type: none"> <li>- administratively-oriented talk</li> <li>- interpreted interaction: generally, two-way consecutive interpretation; interpreter introducing cultural idioms when talking about future actions, drawing on Arabic languaculture; lack of interpreter contextual knowledge leading to misinterpretation (RQ1.1, RQ1.2)</li> </ul>
9.	[Possibly] Further questions	<ul style="list-style-type: none"> <li>- blends with advice-giving (phase 8)</li> </ul> <p>AS FOR PHASE 6, BUT</p> <ul style="list-style-type: none"> <li>- lawyer and/or support worker may also ask questions (data not included) (RQ1.3)</li> </ul>	<ul style="list-style-type: none"> <li>- interpreted interaction: use of longer English turns at talk with complex structure leads to less accurate interpretation (RQ1.1)</li> <li>- L2 interaction: client using strategies for understanding such as rephrasing words in more simple language (RQ1.1)</li> <li>- third parties intervene to assist with understanding, bring in their linguistic resources and contextual knowledge (RQ1.1, RQ1.2, RQ1.3)</li> </ul>
10.	[Possibly] Other action by lawyer	- action-oriented; lawyer printing off documents for client, or taking copies of client documents, to support future action (RQ1.1)	- use of documentation for communication (RQ1.1)
11.	Closing of the meeting, and farewells	- involves confirming future action points (RQ1.1, RQ1.3) and expressions of thanks	<ul style="list-style-type: none"> <li>- reformulation of action points: use of discursive strategies for achieving understanding by lawyer and client (RQ1.1, RQ1.3)</li> <li>- interpreted interaction: languaculture evident in idioms used in expressions of thanks, difficulties with interpretation but communicative leniency in dealing with this (RQ1.1, RQ1.2)</li> </ul>



## Interactional hybridity in legal advice communication

The analysis also highlights that the legal advice activity in these meetings exhibits ‘interactional hybridity’ (Sarangi, 2000, p. 2) in two ways, revealing the complexity of the interaction. Firstly, the overlap that is evident between many of the phases of the legal advice CAT discussed reveals that participants may flexibly move in and out between key phases in their talk. The discursive structure is not set in stone; instead (and reflecting Sarangi, 2000) it seems to function more as a resource or a guide for the interaction than a constraint.

Secondly, three different orientations of talk (legal and procedural; emotional; and administrative) are evident in the data during different phases of the meeting, as different aspects of the client’s situation are addressed. These orientations are shown in Figure 5.4 below:



**Figure 5.4 – Orientations of talk within refugee family reunion legal advice-giving**

The majority of legal advice talk in all meetings was oriented towards the law and legal procedures, such as visa application rules and processes or filing an appeal. Most meetings also featured some talk that was administratively-oriented, for example concerned with arranging another appointment; this was particularly evident in the later phases (phases 8, 9, 10 and 11). A majority of meetings also featured talk that was emotionally or relationally-oriented, such as a client expressing the difficulty of the situation, or the lawyer empathising with, or expressing understanding of and affiliation with, the client’s position, or relational talk such as greetings, thanks, and making jokes. This type of talk was in use throughout, but was particularly salient in advice-giving and decision phases (phases 5, 7 and 8) of meetings, in which the client’s situation was the topic of talk. These different orientations of talk reflect the range of topics that the legal training literature discussed in Chapter Two (section 2.2) describes as featuring in legal advice

interactions, and particularly Sherr's (1986a) model (see Appendix B). The data illustrate that this range of topics remain central, and are dealt with in talk, in multilingual and intercultural legal advice just as in monolingual advice-giving.

### **Responding to the study's research questions**

Drawing on those elements of the data analysed so far ( in which the primary activity was legal advice) to address the primary research question of this study, data analysis using the construct of communicative activity type shows that multilingual and intercultural communication in refugee family reunion legal advice does operate in an identifiably structured way, and follows a similar discursive structure to that which other research has identified takes place in monolingual legal advice settings (Binder et al., 1991; Gibbons, 2003, drawing on Körner, 1992; Sherr, 1986a). Also, communication in this context exhibits interactional hybridity through the flexible use of this discursive structure and of different orientations of talk throughout. The CAT structure provides a framework to connect the study's three grounding constructs of communicative resources used in communication, contexts relevant to communication, and control and agency within communication at the meso-level of communication, which I address in turn below in relation to the subsidiary research questions.

#### **RQ1.1: What linguistic, languacultural, and discursive resources are brought along to, and how are they drawn upon in, the interaction? What oral (linguistic and paralinguistic), written and other means of communication are used?**

In relation to this question, it should be remembered that linguistic, languacultural and discursive practices using verbal and written language (speech and paralinguage, and the use of documentation and tools for written communication) have been the focus of the data analysis. Partly this is because of the importance of these modes of communication in legal settings (see Chapter Two) and partly this is because of the nature of the research site and limitations on data collection, which prevented the collection of detailed data on non-verbal communication.

The data analysis shows how the range of communicative resources drawn in legal advice activity are stable, but vary across phases or communicative projects. In terms of the type of interaction, there is a close link between the purpose of talk in a particular phase, and the interactional nature of the talk (or the "discourse type" in use, Sarangi, 2000, p. 1).

Verbally, the lawyer's L1, English, was used as the principal language of communication, and professional interpreters were arranged where the client's linguistic resources in English were not

sufficient for the advice-giving task to be successfully completed without interpreting support. Within other meetings, clients used L2 English for communication, and L1 English speakers were generally (although not all the time) observed to exercise linguistic accommodation (Comfort & Franklin, 2008) and communicative leniency (Meeuwis, 1994) to appropriate levels in their verbal interactions with clients. The focus of effort was on meaning transfer and understanding using these linguistic strategies. Except for Meeting 5 with Jamal where interpreting had not been arranged, it did not seem from the data collected that the (institutional, and resource-driven) choice to use English in these interactions had the effect of silencing clients in the way that asylum applicants were seen to be silenced by the institutional language ideologies of asylum interview spaces, as described by Blommaert, Collins and Slembrouck (2005). Instead, the discursive resource of the CAT structure of the interaction helped to ensure that communicative spaces were available (particularly in phases 2, 6, 7 and 9) for clients to volunteer information, ask questions, and otherwise exercise agency to make their voice heard.

Where interactions were interpreted, a different, triadic, means of verbal communication took place: two-way consecutive interpreting was used, and generally speakers adjusted speaking style to shorten their speaking turns, used less complex language, and created regular breaks in speech for interpreting, reflecting recommendations for good practice in working with interpreters (see e.g., Corsellis, 2008, pp. 147–8). These adjustments are important for mutual comprehension in interpreted interaction, but they were more manifest in certain phases of legal advice activity (e.g. phase 2, comprising closed lawyer questions and client answers) than in others, such as phase 6 where client questions sometimes called for more complex replies, or in phase 7 where talk was geared towards the relational goal of expressing empathy. Where these good practice strategies were not adopted, there were consequences in terms of less accurate and/or incomplete interpretation (e.g., data extract 17), demonstrating that even if individuals know how to communicate effectively through interpreters (i.e., they have the metalinguistic resources to do this), this does not always manifest in their externalized communicative practices.

Interpreters sometimes faced challenges when culturally-specific language (languaculture) was used, such as idioms of speech connected with the Muslim faith in Arabic in closing greetings in phase 11, or specialist institutional terminology in English in advice phases 3, 5 and 8; these were dealt with these either by asking for clarification or by glossing the term, losing the full meaning of the original. These aspects of the data underline the efficiency benefits of interpreters possessing a detailed knowledge of linguistic, languacultural and discursive resources and practices of both speakers (Ahmad, 2007; see also Hale, 2007, pp. 14–21 for discussion of this

point, which also links to the findings about context below). They also highlight the impossibility of full translation of meaning with some instances of languaculture.

Across all interactions in the data set, both English-medium and interpreted, communicative strategies for negotiating understanding such as repetition of key phrases in feedback, minimal acknowledgement tokens, formulations and comprehension checking, and repair of misunderstanding (Bremer et al., 1996) were used by all parties to interaction to a greater or lesser degree, as required by the size of the linguistic or cultural gap between interlocutors. Again here, the focus of effort was on meaning transfer and ensuring mutual understanding. In certain phases where more verbally dialogic interaction was in use (e.g. the questioning phases 6 and 9), accompanying support workers joined the talk with clarifying statements or questions, drawing on their own linguistic or discursive resources to assist in negotiating understanding. It is notable that these peripheral actors did not contribute to interaction in the same way in other, more “closed” phases such as in phases 5 or 8 of advice-giving – their positioning in the interaction did not allow this as highlighted in the ‘framing dimensions’ discussed in section 5.1.

Relationally-oriented talk was (as highlighted above) evident throughout the legal advice activity type, drawing on various communicative resources such as paralanguage (for example, the use of soft tones) and non-verbal communication (the use of smiles, eye contact, gestures, and facial expressions). The lawyer also used the discursive resources of humour and analogy regularly, to support explanations and advice-giving in phases 5 and 8, or to manage face threats, and thereby to foster relational bonds with clients. In her use of humour in English-medium L1-L2 interactions, it was evident that the lawyer adjusted her language to the level of the client’s English resources in an exercise of linguistic accommodation.

An additional key communicative mode used was the written mode, through documentation. Documents, and technologies for viewing and editing these, were in prominent use within particular phases of the legal advice activity, but always used in interplay with talk. Where the legal matter had a prior history, documents were used for information transfer from client to lawyer in phase 2. They eased the communicative task where linguistic resources were lacking, by passing over a document (e.g. a refusal decision or passport), rather than having to explain verbally. These were then drawn on in the subsequent verbal interaction. Documents containing explanation and detail about legal processes were also useful as a replacement for, or a means of supporting, verbal explanation of such processes when advising clients, (e.g., in phase 8) and the data included examples of Arabic language versions of a workshop document about the family reunion process being used for cross-language communication in this way. Documents were also

used in phase 10 in connection with communicating about future actions, illustrating their function of reaching across and connecting temporally separated events in the legal process (see further Chapter Six).

It can thus be seen that whilst certain communicative resources were used throughout all phases of legal advice activity, other resources came into use during specific phases only. Using the CAT construct as an analytic tool can help the researcher to specify with more precision what sorts of resources are regularly used at what stage of legal advice interaction, and so to identify patterns. Of course, the CAT of legal advice-giving is itself a discursive resource, used by the lawyer to organise and structure the communication in the meeting and acquiesced in by the other parties. This discursive resource, originating out of legal training and then day-to-day legal practice, is closely linked to the legal and institutional context framing the advice meeting.

**RQ1.2: What contexts frame and are relevant to the interaction, and how do they impact on communication?**

As a primary point in response to this question, the CAT itself contextualizes the communication taking place in the legal advice meetings, in that the framing dimensions identified in section 5.1 above constitute the primary context for the interaction. Factors impacting communication such as the interactional roles of lawyer and client, and the lawyer's associated control over the interaction due to being both the host of the physical meeting space, and the "expert", derive from this contextual framing through an "expected" model for the interaction being in place. Within that expected model, and as already discussed above, the sub-purposes underlying each phase also influenced the nature interaction taking place within them. This is a form of brought-along context, in Auer's sense (Auer, 1992; see Chapter Two, section 2.5.2).

Other contexts which were identified in the data as framing and impacting communication were normally closely linked to the purpose of the interaction, i.e., giving and receiving refugee family reunion legal advice. They were brought-about (Auer, 1992), or contextually cued in interaction through the use of certain linguistic or languacultural practices in what Gumperz calls 'conversational inference' (Gumperz, 1999, p. 458) – the close link between relevant contexts, and communicative resources, can be evidenced this way. The data exhibited a distinction here between **shared contexts** (contexts which all parties to the interaction were aware of), which were drawn on in relational work and for setting the frame for advice and narratives; and **non-shared contexts** (contexts which some of the parties to the interaction were not aware of), which were generally the subject of information exchange, explanation, and advice. Thus, brought-

about framing contexts in the two different categories impacted on communication in different ways, reflecting Labov and Fanshel's (1977) distinction between A-events (known to A), B-events (known to B) and A/B-events (known to both) and their differential treatment in talk.

Examples of contexts shared between lawyer and client in the data were family reunion procedures (with repeat clients); parental experiences; financial circumstances for refugees; and cultural or societal conditions in client home countries. They appeared across different phases of the activity. Shared contexts often formed the basis for empathic work and relational work to build trust, with emphasis placed on shared experiences like being a parent or shared opinions such as the poor quality of UKVI's decisions. They were also drawn on for demonstrating understanding in advice-giving, with the lawyer talking about her knowledge of social conditions in the client's country of origin, for example, as an empathising strategy helping to form relational bonds across cultures. These relational strategies of 'alignment' ('an expression of the way speakers in conversation direct themselves toward others present in the exchange', Goffman, 1981a, p. 128) are similar to the positive politeness strategies that Trinch described some lawyers using to position themselves as advocates for their clients (Trinch, 2001).

Examples of non-shared contexts appearing in the data fell into the three categories of knowledge of law and procedure; knowledge of the political environment in the UK; and personal circumstances known to the client (such as Aamina's pregnancy, or Mebratu's previous application for his wife's visa). The former two are sources of the lawyer's expertise, the reason why legal advice is sought, and tended to be brought into interaction more within the advice phases 3, 5 and 8. The latter is context (relevant to the legal situation) known only to the client, and which the lawyer needs access to in order to deliver effective advice, and was brought in during phase 2 through a range of means, and also by questioning in phases 4 and 9. The whole purpose of the advice interaction is to share these non-shared contexts, at least to the extent necessary to build a shared ground between lawyer and client for understanding and mutually agreed future action. The phased structure of the legal advice CAT facilitates this, and the opportunities for clients to share their information and ask questions are as important as the phases of lawyer talk in ensuring that the meeting's goals are achieved. The interactional pattern may be asymmetrical in that the lawyer has more control, but it must be complementary, with both parties able to contribute – described by Linell as 'asymmetrical participation and collective accomplishment' (Linell, 2010, p. 39).

It could be expected from previous literature (see Chapter Two) that the intercultural nature of the interactions would result in a greater number of non-shared contexts, and communication

problems arising from such 'pretextual difference' (Maryns, 2006, p. 6). I prefer to reverse the logic here, and point out that the very fact that many of the contexts framing the legal advice meetings are non-shared evidences the interculturality of the interaction. It is the purpose of the legal advice meeting to address this, reflecting the lawyer's role in this context as a mediating professional (Sarangi & Slembrouck, 1996). Explanations, coupled with communicative tools such as linguistic accommodation (slowing speech, choosing simple terms to describe and explain legal terms and processes, etc.) were used to close pretextual gaps between participants where these were evident or predictable.

What was shared context and what was non-shared context, however, varied between meetings and participants. Occasionally, incorrect assumptions were made about what was shared, such as where the lawyer in data extract 7 assumed that the visa decision-making process and its associated languaculture (e.g., the specialist term 'entry clearance officer') was context shared by all, but was not in fact shared by the interpreter. These incorrect assumptions caused understanding difficulties, and some moves for linguistic clarification in the data derived from such contextual factors. On other occasions, lack of contextual knowledge or awareness led to a communication gap, for example with the interpretation of 'out of the office' in data extract 16.

Where prior relationships existed between lawyer and client, or the client had previous experience of the process, this in itself contextually affected the interaction in that there was a greater level of pre-existing shared context between lawyer and client, resulting in less need for information exchange and explanations. The data contain indications that clients acquired secondary linguistic, languacultural and discursive resources through exposure to legal processes, in the same way that the lawyer acquired knowledge about issues frequently affecting refugees from certain backgrounds (such as Somali refugees rarely having any birth certificates) through repeated prior interaction with clients facing the same issues. This acquired knowledge and experience often served to lessen contextual differences (pretextual gaps) between lawyer and client, decreasing the amount of communicative work needing to be done to reach understanding.

**RQ1.3: How do individuals exert and resist control, and exercise agency, through their communication? Are power dynamics evident in the interaction in any other ways?**

Control and agency in the legal advice communication is also framed by the CAT structure of the interaction in that the possibilities for control and agency were largely defined by the interactional role being played by the participant, and the phase of the activity that was in progress. As

mentioned above, and corresponding to Linell's (2010) conceptualization of CATs, interaction in the legal advice activity type is asymmetrical, but complementary: the lawyer is in overall control of the interaction but the CAT structure creates spaces for the client to bring in information, express thoughts and opinions, take decisions, and ask questions, so that the client's concerns and goals are voiced and addressed in the meeting. The legal advice CAT structure therefore functions as a mechanism for regulating interactional control and agency at the meso-level, so that the purpose of the interaction can be achieved.

In the data analysed, the lawyer was in overall control of the legal advice-giving activity at the micro-level, controlling the topic and shifts between phases and discourse types. The lawyer used her control to dominate the talk in certain phases, but in other phases to open up interactional spaces for the client, such as in phases 6 and 9 where clients and others present were able to control the topic through questions and in phase 7 where interactional space was given to the client as he was considering his decision. The data thus illustrated the 'client-centered' (Binder et al., 1991) and 'participatory' (Dieckmann & Rojas-Lizana, 2016), but nevertheless lawyer-controlled, style of legal advice interaction advocated in the legal training literature discussed in Chapter Two (section 2.2). Clients were active participants in the dialogue in the requisite phases, but could also be seen exercising agency at other times to bring new information into the interaction, or to work towards clarifying or negotiating understanding.

Significantly, micro-level control and agency also depended on whether or not the advice interaction was interpreted. Where interpretation was a feature of the interaction, all parties were dependent on the linguistic mediation of the interpreter and her active participation in maintaining the interactional roles of the others, for the CAT to function in the expected manner. The professional interpreters featured in the data in this chapter discharged this responsibility consistently. When interaction was interpreted, the interpreter exercised agency on occasion to intervene in talk to clarify and improve communication, considered good interpreting practice by Corsellis (2008, p. 48), but this did not happen in every possible instance. These occasions were the only times in the legal advice activity when the interpreter spoke as 'principal' (Goffman, 1981a, p. 144), i.e. on her own behalf. Had an interpreter chosen to behave otherwise, however, the reality could have been very different. This role of the interpreter is explored further in Chapter Six.

A further variable affecting agency, mentioned above, was the nature of the relationship between lawyer and client. In Meeting 7, this appeared to be particularly close, and the interaction was markedly different from others in the data in that an informal register was used by the lawyer,



there were client interruptions of lawyer talk, and there was greater use of directive, focusing questions by the client (such as in data extract 11). This pattern could also be attributable to the client's personality, but I would argue that it is unlikely that the lawyer would have exhibited such patience if faced with interactional behaviour of this kind from a client whom she had just met.

### **Summary**

These section 5.2 findings show how through the CAT analysis, a nuanced understanding of how individuals communicated interculturally and multilingually in legal advice-focused sections of the refugee family reunion legal advice meetings analysed can be arrived at. The connections between the structured nature of the communication, the range of communicative resources used and the dynamics of control and agency were made clear, as well as the ways in which a range of contexts were brought along to the interaction as a whole, and brought about within certain phases of (or across all of) the interaction. Overall, they demonstrate that the flexibility and interactional hybridity of the CAT structure supported intercultural and multilingual legal advice communication, allowing for shifts between different phases to take place and for the relational work that is so central in building lawyer-client trust to take place across languages and cultures. The findings highlight the need for lawyers to both master a range of communicative styles, and possess the ability to switch appropriately between different types of talk: blend of linguistic and discursive skills are required.

Other sections of talk within these meetings did not focus on legal advice to the client. The other activities engaged in within these sections of talk are significant for three reasons. First, the additional activities are seen to directly or indirectly support the legal advice activity, and therefore are an integral part of the legal advice meetings overall. Second, by examining the contrasts that exist between communication in the different activities, these additional activities illuminate further the nature of communication within legal advice activity. Third, looking at communication within the additional activities sheds light on an argument that the legal advice CAT not only supports and guides legal advice communication, but also constrains how people communicate in this environment. In the following section 5.3, I discuss these additional activities and explain more fully their significance for the overall analysis.

5.3 Additional activity types and their significance in the interaction

As explained at the start of the chapter, many of the meetings in the data set contained sections of interaction which did not fit within the communicative activity type of legal advice-giving. Their primary purpose was not seeking or giving legal advice. These sections of interaction were characterized by a shift of focus away from advising the client on his or her particular issue, shifts in role and participant positionings, and changes in communicative style and/or strategy, substantive enough that I identify them as “additional activity types”. In this study, they are of particular significance for the primary research question of how individuals communicate in multilingual and intercultural legal advice meetings: they involve shifts in the kinds of communicative resources used, the bringing in of additional contexts to the interaction, and changes in interactional role and thus in the potential for agency and control for each participant. These additional activity types serve both to contrastively highlight the interactional characteristics of the legal advice communicative activity type, and (in some cases) to illustrate the potential for participants to find other ways of being and communicating within the forum of the meeting, enhancing their agency or individual identities beyond the confines of the legal advice activity.

Figure 5.5 below illustrates all the various communicative activity types evident within the advice meetings in this family reunion advice data set.

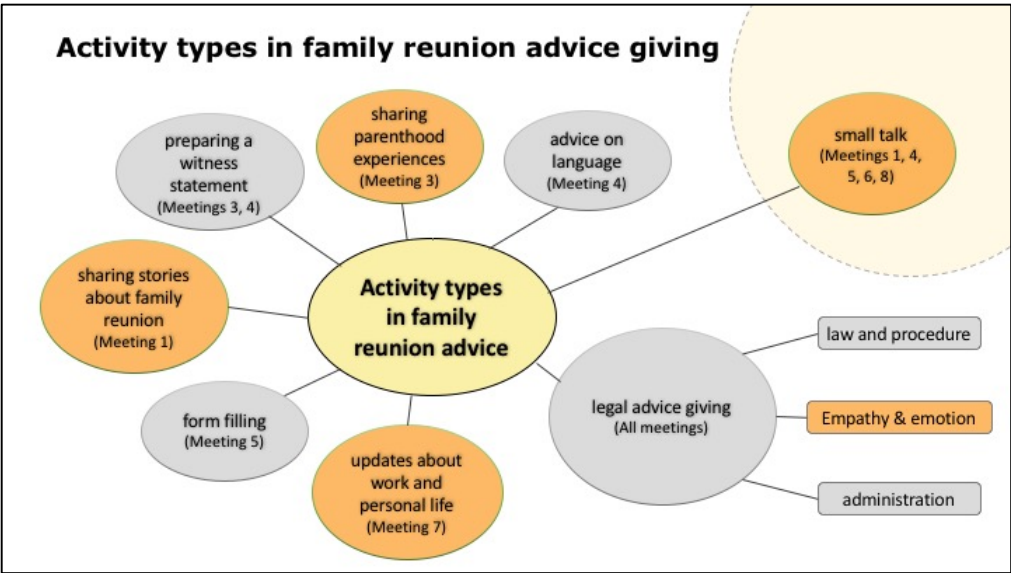


Figure 5.5 – Communicative activity types in refugee family reunion advice-giving

The seven additional activity types identified in the family reunion advice meeting data are divisible into two main categories: professional task-related activity types (shaded grey spheres in Figure 5.5, along with legal advice-giving, and discussed in section 5.3.1), and interpersonal relations-related activity types (shaded orange spheres in Figure 5.5, and discussed in section 5.3.2). One of the additional activity types, small talk, did not involve the lawyer and has therefore been bracketed in Figure 5.5. I discuss these activities below, drawing on examples from the transcripts. Firstly, I examine the function of each additional activity type in the interaction(s) and its impact on the main activity of legal advice-giving, and secondly, I consider the significance of each additional activity type for the research questions.

### 5.3.1 Professional task-related activity types

Professional task-related activity types appeared in three meetings, Meetings 15 (witness statement work), 16 (witness statement work and advice on language) and 17 (form filling). They occurred alongside the legal advice-giving activity in each case, underlining that (as mentioned in Chapter One, section 1.5) legal advice-giving is only one of a range of functions that a legal advisor performs with and for clients, and that meetings can sometimes involve two or more tasks.

**(a) Witness statement work.** The main purpose of Meetings 3 and 4 is to prepare and finalise a witness statement to support the fresh applications for visas for Khalid's wife and younger children. This activity therefore serves the function of actioning part of the advice delivered in Meeting 1. Julia arranges for the same professional interpreter to attend both meetings. In Meeting 3, the witness statement work consists of Julia asking Khalid a series of questions, the interpreter acting as linguistic intermediary by interpreting Julia's questions and Khalid's answers between Arabic and English, and Julia using Khalid's replies to draw up a written narrative in English on her laptop. This will be presented to the legal system as Khalid's own words and account. Witness statement-taking is a recognized activity type in legal-lay communication, and has been researched in other legal contexts such as police interviews (Komter, 2006a; Rock, 2001) and asylum interviews (Maryns, 2006). Data extract 20 below illustrates the typical interaction:

#### *Data extract 20*

	Speaker	Original language	Translation to English
1	J	are you still (.) on jobseekers allowance (.)°Khalid°	
2	Int B	هل مازلت تتلقى مساعدات "الباحثين عن عمل"	do you still receive jobseekers allowance?
3	K	نعم نعم	yes, yes

4	Int B	yes, yes	
5	J	so would you (.) you know (.) realistically (.) say that (.) um (2) <u>paying</u> yourself (.) for DNA tes↓ting	
6	Int B	um (.) [(xxxx)]	
7	J	[for for <u>all</u> of the chil↓dren	
8	Int B	هل تستطيع تحمل نفقات التحليل؟	will you be able to afford DNA cost?
9	K	لن أستطيع (.) من أين لي ذلك؟	no, I will not (.) how?

Meeting three transcript, 40:52 – 41:24

In this extract, Julia's questions are aimed at producing a statement containing factual information about the prohibitive cost of DNA tests for Khalid in his current circumstances, a point she wants to make in the statement.

In one or two instances during the activity, Julia steps out of role to voice a meta-commentary on this process of entextualization, as for example she does with this comment on her questions in extract 20: 'what I'm trying to get across in the statement is that (.) um (...) you know it- (.) it's something that you want to do (.) but you can't because of the, the financial cost of it' (Meeting three transcript, 42:22). Julia here gives reasons for her somewhat intrusive questioning, excusing the threat to Khalid's face presented by the question in a positive politeness move (Brown & Levinson, 1987) also observed in other research on lawyer-client interaction (Trinch, 2001).

**Analysis.** In this activity, the lawyer, client and interpreter generally keep to the defined roles of question-poser, respondent, and interpreter, and the discourse type resembles that observed in the information-gathering phase (phase 2) of legal advice meetings. There are some key differences between this activity type, and phase 2 of legal advice activity, however: Julia's questions are here aimed at eliciting a story that will be read by others, and she also has a second role as entextualizer of the client's narrative (Maryns, 2006), using her laptop in the meeting to type out an "official" version of the narrative that is being elicited through the question-and-answer interaction. The interaction therefore results in the co-production of a legally significant text, evident in much of the transcript (although not in the extract above) in the shape of frequent pauses punctuated by the sound of typing.

In Meeting 4, in contrast to Meeting 3, the witness statement work involves the interpreter sight-translating the finished English language written statement out loud into spoken Arabic, whilst Khalid listens to check its contents, and a different discourse type emerges. Early on in the meeting Julia announces the purpose of the meeting: 'okay so, today (...) um what we'd like to do

is to read back your statement, and whilst you're doing that I will try and get as much of the applications done as we can' (Meeting four transcript, 03:31). After some advice and discussion about the current stage of Khalid's legal matter, Julia exits the room to print off the statement, during which absence Khalid asks the interpreter a question and she replies that she will ask Julia. When Julia re-enters the room with the statement, she hands it to the others, as seen in extract 21 below (speaking turns in which Khalid's question are dealt with are omitted from lines 2 to 5):

*Data extract 21*

	Speaker	Original language	Translation to English
		((sound of door opening and closing, Julia comes back in with statement))	
1	J	°there you go° (.) if I can just ask you to start reading <u>that</u> back- [(xxxx)*	
2	Int B	[yeah- er ((data omitted))	
3	J	((data omitted))	
4	Int B	((data omitted))	((data omitted))
5	Int B	((data omitted))	((data omitted))
		((silence 2 seconds))	
6	Int B	الخاصة بك، سأقوم بقراءتها إذا statement هذه هي لديك أي تصحيح أة أي شيء .. قوله لنا	this is your statement, I will read. it if you have any correction or anything else, tell us **
7	K	mmm	

\*Observation notes: 'J gives copy statement to K and Int B and asks them to read it over'

\*\*Observation notes: 'K and Int B both looking at statement, focused on it. K gets his glasses out'

Meeting four transcript, 07:05 – 07:53

At line 1 Julia expressly keys the change in activity type, by asking the interpreter and Khalid to read the statement back. The interpreter however interrupts to raise Khalid's question. Once this has been dealt with, it is the interpreter who assumes interactional control and effects the shift into the new activity, by pausing before addressing Khalid in Arabic at line 6, to announce the reading over. At line 7 Khalid acknowledges this with an 'mmm'; he engages in the change in activity by putting his glasses on and focusing on the document. During the sight-translation, Khalid intervenes only once, to correct a mistake in the statement. Julia occupies a passive role throughout, only intervening to correct the mistake in the soft copy of the statement on her laptop once alerted to it.

**Analysis.** The marked shift in roles and interactional control here, with the lawyer becoming passive, the interpreter taking over as the main speaker (although acting as a kind of ‘animator’ (Goffman, 1981a, p. 144) through translation of the co-authored statement, and not as ‘principal’, p.144) and the client in the position of authority (to agree or not with the statement’s contents), together with the focus on the written document, provide the interactional contrast between the activities of witness statement work in this meeting and legal advice-giving and are relevant to subsidiary RQ1.3. This discourse type within the witness statement activity reflects the legal requirement that a witness statement should be authored by the witness and represent the witness’s own words – although ironically the statement must also be written in English unless a court direction provides otherwise (in which case a written translation to English is required) (Practice Direction 32, Civil Procedure Rules, see Ministry of Justice, n.d.). Directed by this hidden institutional frame, Khalid therefore becomes the expert and the source of authority in this activity, but requires the linguistic mediation of the interpreter to help him check whether the contents of the statement are accurate. Also, and of relevance to subsidiary RQ1.1, documents enter into the interaction in a different way to that previously seen in the data – as a product of the interaction. The interdependence of talk and text in the legal communication field, discussed in Chapter Two (section 2.1.2), is evident here in a different way.

**(b) Advice about language.** Also within Meeting 4, a third activity type emerges when Julia asks the interpreter’s advice on the spelling in English of the Arabic vowel alif ( ا ) in names during the correction of the statement. Data extract 22 below is taken from the discussion, which begins after Julia has checked the spelling of the name ‘Ahmad’:

*Data extract 22*

	Speaker	Original language
1	J	just they get <u>really</u> - (.) I’ve (.) noticed recently they’re getting <u>really</u> pedantic about (.) a’s (.) and e’s (..) and they don’t understand that (.) I think there’s, there’s quite often a mistake in transla↑tion between (..) um: (.) Arabic and Eng↑lish (.) about the a?
2	Int B	about the a (.) yeah yeah
3	J	yeah? yeah?
4	Int B	yeah, the pron <u>un</u> ciation
5	J	so (.) people will write it as an e?
6	Int B	Ahmed with e?
7	J	yeah, rather than ↑a and vice ver↑sa, and then <u>sur</u> names sometimes it comes up
8	Int B	with a, yeah
9	J	it’s come up with a couple of cases where it’s not been t- translated [(.) proper↑ly

- 10 Int B [yeah  
 11 J um so the Home Office are (.) raising that as an is<sup>↑</sup>sue saying it's a different  
 (.)  
 12 Int B [spelling (.) yes, yes  
 13 J [particularly with family names, family names that's (.) and it- (.) it is, it  
 seems to be just the a and the e  
 14 Int B °interesting° (.) because Ahmad erm (..) it's- it's er we used to write it with a  
 (.) yeah (.) nobody can write it with e at all but some of the family ↑names  
 ↓yes instead of saying al er- they say (.) el (.) a- according to the, to th<sup>↑</sup>eir  
accent or dialect  
 15 J yes, yeah  
 16 Int B because it is different from one country to another  
 17 J °yeah°  
 18 R mmm  
 19 Int B so from Iraq to Sudan it's- (.) their pronunciation is- is different absolutely  
 (.)  
 20 J yeah  
 21 Int B so this is the problem, yeah  
 22 J it is it is causing problems at the minute so just °making sure°  
 23 Int B uh huh

Meeting four transcript, 19:41 – 21:03

In this exchange, Julia asks the interpreter about the correct spelling in English of an Arabic name containing an alif, which is pronounced differently in different varieties of Arabic, and which consequently can appear as an 'a' or an 'e' in transliterations of Arabic into the Roman alphabet. Julia describes this as a 'mistake in translation' (line 1), explaining that this often causes problems with the Home Office (who, like asylum decision-making institutions elsewhere in Europe (Jacquemet, 2015), treat the accurate and consistent spelling and remembering of names, places and dates as a central indicator of credibility – see Appendix A for further information about credibility). In the course of Julia's explanation, the interpreter confirms at lines 4 and 14 that the problem is connected to variable pronunciation. Line 23 of the extract marks the end of this activity, and after briefly explaining to Khalid what has been discussed, the interpreter recommences the statement sight-translation, thereby again verbally cueing and controlling the shift from one activity to another.

**Analysis.** In a marked shift from the witness statement activity in Meeting 4 (within which this activity is embedded), this activity involves a change of topic into metalinguistic commentary, and takes place entirely in English. Roles shift, in that Khalid is not involved, and the interpreter becomes the (linguistic) expert whom Julia consults for advice – a role that (as discussed in Chapter Two) Ahmad (2007) argues should be more explicitly recognized in interpreted lawyer-client interactions. The different interactional roles, the shift in topic, and the shift in the linguistic

resources used, all signal that this is a new activity and bring with it a different, more agentic, interactional positioning for the interpreter which is interesting for subsidiary RQ1.3.

**(c) Form filling.** The final professional task-related additional activity type, filling out visa application forms online, occurred in Meeting 5 with Jamal. Like the witness statement activity, this activity serves the function of actioning advice delivered in a previous meeting with Jamal and in other sections of Meeting 5. Julia had asked Jamal in the previous meeting to bring his family's identity documents to her, so that she can fill in the online visa application forms for him. Although Meeting 5 was curtailed and rearranged to deal with advice on Jamal's brother, two phases of form-filling activity did take place. Data extract 23 features the identity documents (brought along as soft copies on Jamal's phone, and now printed out in hard copy) and the Client Record Form (see Chapter Four, section 4.5.2), which are lying on the meeting room table, and are referred to in talk:

*Data extract 23*

	Speaker	Original language
1	J	now I have <u>these</u> (.) this information (.) I can <u>start</u> (.) the applica↓tions
2	Jamal	yeah
3	J	okay 'cause I've got the <u>passports</u> now
4	Jamal	mmm
5	J	okay? (.) um (4) ((sound of a piece of paper being moved)) is <u>that</u> the right number for you?
6	Jamal	(7) yeah
7	J	yeah? (.) um (.) so- (.) what I'll do is I'll see if I can get (.) er: our <u>interpreter</u>
8	Jamal	but I have a: new (.) new er (..) another <u>address</u>
9	J	YOU'VE got a new ad↓dress
10	Jamal	yeah
11	J	okay <u>not</u> (.) this one
12	Jamal	yeah
13	J	no (..) okay what's the new address?
14	-	(17) ((silence and sound of writing on paper)) *
15	-	(33) ((sound of lawyer typing on the laptop, then something being written down))
16	J	((whispering)) okay

\*Observation notes: client writes down his new address on record form and puts the pen down on the table

Meeting five transcript, 08:46 – 10:21

Announcing the activity in line 1, Julia refers to the identity documents using the deictic word 'these', making the link between having the documents (containing necessary information) and



being able to start preparing the applications. Julia shifts into the form filling activity at line 5 with a brief silence. During this, Julia looks over the Client Record Form in front of her containing Jamal's personal details, and in lines 5 to 7 she checks the telephone number with Jamal. Jamal also notices that his address is out of date, and in the exchange at lines 8 to 14, Julia and Jamal work together using pen and paper to record his current address. A long period of silence follows at line 15 as Julia inputs this information into the online form.

**Analysis:** The internal interactional organization in this activity type contrasts sharply with every other activity present in the data, particularly with regard to how documents of various kinds, and technology, are heavily relied on as means for, and tools of communication (RQ1.1). The form filling activity, both here and in the other sequence in Meeting 5 in which it occurs, is characterized by Julia typing to input information from documents and questioning the client to check information; and the client verifying and providing information in both verbal and documentary form. Verbal exchange is limited to short questions and responses, long silences are common as information is input, and pen, paper and copies of documents are used as central means of transferring and verifying information. Julia is again in control of the interaction, but she is heavily dependent on the client to provide necessary information. In this extract, the use of documents as a means of communication, and the more functional purpose, resulted in a lesser need for verbal communication – less sophisticated linguistic resources were required.

The additional activity types within the professional task-related activity grouping (5.3.1) exhibit variety in terms of their 'framing dimensions' and interactional characteristics, particularly shifts of agency, but they all share related purposes of achieving work-related tasks complementing and supporting the legal advice-giving. In contrast, the activities in the second additional activity type grouping discussed in section 5.3.2 below share the very different purpose of establishing and consolidating relational bonds between meeting participants.

### **5.3.2 Interpersonal relations-related activity types**

In three meetings with Khalid and Ismail, two clients that Julia has acted for previously and has (according to my observations) a familiar relationship with, activities within the second category of interpersonal relations-related additional activity types cement and solidify interpersonal relationships by foregrounding contexts which are shared between the parties. Significantly for the primary and subsidiary research questions, in these activity types linguistic resources are used more flexibly, in ways that contrast with the rest of the meeting interaction, and interactional roles shift and blur.

**(d) Sharing stories about family reunion.** Towards the end of Meeting 1 with Khalid, a long discussion takes place between Khalid, Julia, and the NGO support worker Steve in which stories about experiences of the family reunion process are shared. The activity lasts over ten minutes, and comprises a mixture of anecdotes, personal experience narratives and personal opinions.

Steve initiates the discussion, who after the next meeting has been arranged, changes topic to ask the general question: ‘given that probably most: people have this (.) issue with documents (.) in Sudan (..) how does anyone ever get granted a visa?’ (Meeting one transcript, 60:55). This comment is interpreted for Khalid, but then Julia responds with a long turn at talk, explaining that very detailed applications with supporting representations are needed, and citing a recent Red Cross report about the range of administrative failings within refugee family reunion procedures which are causing hardship for families (see Beswick, 2015). Julia’s response is summarized only briefly in Arabic by the interpreter before Julia continues, mentioning that refugees are being scared into getting into debt to pay for DNA tests, but still being refused. Again this is summarized in Arabic by the interpreter, whilst in overlapping English speech Julia’s commentary to Steve continues as she expresses that there ought to be an investigation into how family reunion cases are dealt with, and that there have been moves to put this on the political agenda. Data extract 24 continues the exchange:

*Data extract 24*

	Speaker	Original language	Translation to English
1	J	>you know< (.) wi- with the new immigration bill they’re trying to push for an <u>amendment</u> (.) to support family reunion but (.) it’s just	
2	S	mmm	
3	J	the political appetite’s <u>just not there</u> (...) in this government [(.) it’s sad	
4	S	[it’s <u>completely</u> in breach of the spirit of the Con↑vention isn’t it?	
5	J	it’s i- (.) I mean it is <u>entirely</u> in the Con↑vention about how: refugees should be supported to <u>integrate</u> into society [and t-	
5	S	[yeah (.) yeah	
6	J	>you know< it’s an international principle of <u>family</u> law let <u>alone</u> refugee law (.) that: you know family unity is ↑paramount (..) and if you’re in a if you >are a refugee< and you’ve fled your >country of origin< and you’re without your family (.) you should- (.) t- you know (.) the accepting state should be doing ↑everything within their power to reun↑ite families [um	

7	S	[yeah, yeah	
8	Int A	هي تتحدث عن اللاجئين وكيف يتركون عائلاتهم .... وكيف من المفروض لم شمل عائلاتهم	she talks about refugees and how they leave their families ..... how they should reunite with their families
9	K	من المفترض أنك قبلتني فعليك قبول عائلتي .. ! كيف تقبلني وترفض عائلتي! قلبك سيكون شقين !!	you have accepted me; they supposed to accept my family too..! How do you accept me, meanwhile you refuse my family! Your heart will be into 2 parts!!
10	Int A	°yeah° so they, they accept- they accept us and then they refuse our families er (.) i- it's so difficult it's as if you are there (.) like parting your heart in, in two	
11	J	yeah (.) [it's:	yeah (.) [it's:
12	K	{بالأمس حدثني أحد الأشخاص من منطقة أخرى حصل على رفض	[yesterday, a person from other area spoke to me; he got a refusal
13	Int A	لرفض لماذا؟	refusal, for what?
14	K	بقيمة تقريبا 950 DNA رفض لعائلته، وعمل تحليل جنيه إسترليني وهو لا يعمل ويحصل على حصة من المجلس والشباب أصدقائه ساعدوه في المبلغ وما زال خائفاً من حدوث مشاكل بينه وبين زوجته، فقد يكون أحد الأولاد ليس ابنه ...	for his family. He did the DNA test and paid nearly £950; he is jobless and the council helps him. His friends also contributed in collecting the amount. Still, he is afraid of problems that might arise between him and his wife. ((said in an excited tone, voice raised)) Maybe one of the children is not his son ....
15	Int A	mmhm@ (.) yeah: so it's um (.) erm: (.) (er) somebody yesterday told me that he had a refusal (.) er for family (.) er reunion (.) and er he did the (.) um, the >DNA< (.) um test and: er (.) he just thinks tha- wh- then (.) what what happens if (.) like (.) it might make, em like problems between me and my wife in the future (.) like (.) a child tha- that's not (.) like (.) that shows that it's not mine or something so it makes (.) raises @a lot of @	
16	J	[@@	
17	R	[YEAH:	
18	S, K	[mmm	
		[@@	

Meeting one transcript, 62:50 – 65:20

In this extract, lines 1 to 7 feature a conversational exchange between Julia and Steve in English. There is no observable linguistic accommodation here, and Julia does not pause to allow interpreting, in a marked shift from her usual style during interpreted legal advice activity. This may be because of the initial comment having come from Steve, or because of the shift of topic away from Khalid's specific case into more general territory. Whatever the reason, no express or implied signals are given to the interpreter about whether and how to interpret, and she exercises her own agency in intervening to provide Arabic summaries of the conversation at intervals, for example at line 8. Khalid's response at line 9 shows that he has engaged his L2 English to follow Julia's words at least in part, responding with a comment that demonstrates his understanding of the conversation, which is interpreted to English for Julia and Steve. At line 12, Khalid interrupts Julia to assume the speaking floor, telling an anecdote of his own in Arabic which returns to the previous subject of refugees taking on debt to get DNA tests. The others allow Khalid the floor, and when his story is (loosely) interpreted it is met with a lively reaction at lines 16 to 18. In the turns that follow, all three of Julia, Steve and Khalid converse with the interpreter's assistance, and Khalid contributes two more anecdotes before it finally ends with the meeting coming to a close.

**Analysis.** As mentioned, there is a marked shift in discourse type away from the two-way consecutive interpreting of the legal advice activity, and towards a more social conversation between Julia and Steve, at the start of this activity. Khalid's intervention in line 12 shows that in spite of this shift in interactional pattern which was tending to exclude him linguistically, he felt able to interrupt Julia and join in the conversation with an anecdote of his own, re-inserting himself into this new form of interaction in a clear exercise of agency relevant to subsidiary RQ1.3. Khalid may well have felt comfortable doing this because he has established relationships with both Julia and Steve. He was also supported by the interpreter's agency in providing periodic interpreted summaries of the English interaction, in a linguistic strategy that interestingly for subsidiary RQ1.1 has not previously been seen in the data. Although this was an unconventional strategy according to interpreting norms described in leading texts (Corsellis, 2008; Hale, 2007; Pöchhacker, 2004), it probably helped Khalid to identify that the topic was something that he could contribute to. This extended exchange is an example of Julia, Khalid and Steve bonding over exchanging stories and opinions about this shared context, thus using a relevant context for relational work and wider information exchange (RQ1.2). They did so through the client's exercise of agency, and the active involvement of the interpreter enabling the flexible use of the communicative resources available to them in the meeting, in an interactional pattern very different from the legal advice phases of the same meeting. This again reveals the interpreter as

wielding significant interactional power, and needing to act agentively and independently to try to fulfil her role of linguistic intermediary (Ahmad, 2007; Wadensjö, 1998).

**(e) Sharing parenthood experiences.** In Meeting 3 with Khalid, a quite different extended exchange involving lawyer, client and interpreter about personal experiences of parenthood takes place during, and overlapping with, the witness statement activity. A section of around seven minutes of talk in the middle of the statement-taking activity occurs on the subject of shared personal experiences of parenthood and the dilemma of avoiding parental favouritism. This activity begins when, as part of a narrative for the statement about his family's daily life in Sudan, Khalid is commenting on how he misses his children. In data extract 25 below, Julia replies to Khalid with an empathising response:

*Data extract 25*

	Speaker	Original language	Translation to English
1	J	so it's safe to say you miss them very much	
2	Int	أنت تشتاق لهم .....	you miss them .....
3		((sounds of sighing by more than one person))	
4	K	كثيراً	a lot
5	Int	جميعهم؟	all of them?
6	K	كيف؟	how is that?
7	Int	تشتاق لهم جميعاً أو واحد منهم بالتحديد؟	do you miss them all or there is someone in particular?
8	K	طبعاً البكر له ميزة خاصة سواء كانت بنت أو ولد ولكني أحبهم كلهم بشدة. ولكن عندي ابنتي الوسطى ندية تحبني بشدة	for sure, the eldest child has special advantage whether it is a boy or a girl. Yet, I love them all and my middle daughter Nadia loves me a lot
9	Int B	ندية	Nadia
10	K	ندية(xxxx)	Nadia (xxxx)
11	Int B	er I miss them (.) <u>all</u> of them together but (.) the middle one Nadia (.) she has a- a special relationship with <u>me</u>	
12	J	mmm hmm	
13	Int B	er she- she is <u>very</u> close to me	
14	J	(2) so everyone has their favourites @	
15	S, R	@@	
16	Int B	كل شخص لديه شخص مفضل بالنسبة له @	@ each one of us has a favourite child who is very close

Meeting three transcript, 29:38 – 30:39

Following the normal pattern of the witness statement taking discourse type (discussed in section 5.3.1 above), at line 2 the interpreter interprets Julia's comment in line 1. Having received Khalid's response at line 3, however, instead of interpreting this for Julia she continues an exchange with Khalid in Arabic, stepping out of the role of interpreter by asking him if there is someone he misses in particular. This surprise intervention by the interpreter leads into a short narrative from Khalid about his special relationship with his middle daughter Nadia at lines 8 and 10, which the interpreter translates. Responding to this at line 14, Julia makes an empathising comment 'everyone has their favourites', which prompts warm laughter from all of the English speakers in the room, including from the interpreter at line 16 as she interprets. This leads into a whole conversation about family relationships, in which Julia and Khalid are the main 'authors' (Goffman, 1981a, p. 144) with the interpreter interpreting their talk, but in which the interpreter also participates more actively than usual by issuing frequent acknowledgement tokens ('mmm'; 'yeah'; 'yes yes'; or laughter) in reaction to both parties' talk. Khalid describes the difficulty of treating all his children equally when they are so different. Data extract 26 below shows Julia responding to this:

*Data extract 26*

	Speaker	Original language	Translation to English
1	K	كل إنسان لديه، من بين أطفاله، واحداً مميز	each one has special child among his children
2	Int B	yeah, <i>wahad</i> special, mmm	yeah one is special, mmm
3	K	بيحس به ويبكون مقرب جداً له، ولكني لا أحب إظهار أنني أحبه أكثر من الآخرين حتى لا يشعروا بالغيرة	s/he feels and cares for you. However, I do not show that I love him/her more than the others in order to avoid their jealousy
4	Int B	er I think everyone- family er (.) who consists more than one child: (.) there is something- er someone <u>special</u> either to the mother or the father (.) I don't know <u>why</u> but (..) must must be some- somebody <u>special</u> but always I try to keep this one inside my heart I didn't <u>mention</u> it (.) in front of the others	
5	J	°yeah°	
6	Int B	so nobody will jealous from @	
7	S, R	[@@	
8	J	[@ yeah (...) I go out of my way to make my (.) >two little kids< (.) equal*	
9	Int B	yeah equal yeah	
10	J	but- (.) it's (.) <u>just</u> impossible	
11	Int B, K	@@@	

12	K	صغير يعني أم ماذا؟	you mean young?
13	Int B	لا, لا, هي تحاول أن تساوي في المعاملة بين طفلها الإنثتين	((animated tone)) no, no, she tries to treat her two children equally
14	K	لن تستطيع ...	((laughing tone)) she will not be able .....
15	Int B	هي تحاول ....	she tries .....
16	K	لن تستطيع ....	she will not be able .....
17	Int B	@@	

\*Observation notes: ‘everyone smiling and exchanging glances’

Meeting three transcript, 32:43 – 33:55

In lines 1 to 6, Khalid comments on having a favourite child, and the interpreter issues an acknowledgement token at line 2 characterized by a code-mix of the Arabic word *wahad* (‘one’) with English before interpreting this. Everyone laughs warmly at Khalid’s words (lines 6-8) and Julia responds with a comment on her efforts to treat her children equally. This again prompts laughter, and Khalid takes a guess at what Julia has just said at line 12, which the interpreter responds to animatedly at line 13 to correct him. Khalid issues a knowing response, that she will not be able to give equal treatment. The interaction continues after this extract with a narrative from Julia about what she does to ensure equal treatment, interpreted by the interpreter and responded to by Khalid with small comments. The narrative then moves on when the interpreter (who has one daughter) comments in English ‘I don’t have this feeling’, and a short conversation in English ensues about the interpreter’s parenthood experience, an excerpt of which is shown below:

#### *Data extract 27*

	Speaker	Original language
1	Int B	she is- (.) she is used to sharing my <u>own</u> (.) things
2	J	mmm
3	Int B	er (..) but not for <u>me</u> to share <u>her</u> (.) and she refuse anybody er >when I say someth-< er (.) I love my nephew and my niece
4	J	mm hmm
5	Int B	if I just appear my love to <u>them</u> (.) she will feel jealous
6	J	yeah (.) so that’s the other (..) yeah
7	Int B	yeah

Meeting three transcript, 36:30 – 36:52

The interpreter does not interpret her comments for Khalid (it is not clear why), and after a short silence, Julia moves the interaction back into the witness statement activity with the words ‘so looking at the issue of um DNA testing...’ (Meeting three transcript, 37:03) followed by a question to Khalid about this. This framing comment and direct question mark a change of footing, and a return to the prior roles and activity underway in the meeting.

**Analysis.** In this activity type, lawyer, client and interpreter shift for a while out of their institutionally-defined roles, into the role of fellow parents sharing their parenthood experiences, and drawing on these as a relevant context to bring into the interaction. The interaction, centred on a very personal and positive shared human experience, is punctuated by exchanges of smiles, glances, warm tones of voice, and laughter during the course of this activity, testifying to trust-building between the participants. This consolidation of trust may help to mitigate the impact of other more face-threatening parts of the meeting interaction, such as when Julia asked Khalid some challenging questions as part of the statement-taking (see data extract 20). The activity emphasizes the shared identities of parent, family member and affective human being, with meeting participants drawing on this shared context and bringing it into the interaction with their talk to create interpersonal bonds. Significantly for subsidiary RQ1.2, the impact of this particular shared context was that it enabled everyone to focus on a shared experience which transcended the cultural and linguistic differences present in the meeting.

**(f) Updates about work and personal life.** A third type of interpersonal relations-related exchange unconnected to legal advice-giving takes place in Meeting 7 with Ismail, whom Julia acted for in his asylum application several years previously. Towards the end of the meeting, Julia and Ismail exchange news of developments in their own personal and professional lives since they last saw each other. Julia first describes how the work that she and the advice service does has changed. In turn, Ismail shares some personal news with Julia in the extract below:

*Data extract 28*

	Speaker	Original language
1	I	eh eh I have a <u>boy</u> now
2	J	mmm?
3	D	he has a son
4	J	WH↑AT?
5	I, F	@@@@
6	I	I have a <u>boy</u> (.) <u>two</u> years @@
7	J	[((exhales))
8	R	[oh how <u>lovely</u>
9	J	<u>congratulations</u>



In this extract, Ismail introduces a significant topic change, although he perhaps takes his cue from the sharing of news by Julia in the previous interactional sequence. The news that Ismail has a baby son, disclosed in line 1, is so unexpected that Julia doesn't catch it at first, and the youth worker David has to rephrase Ismail's words at line 3 before Julia understands. Julia's response of surprise at line 4 delights Ismail and his brother Farah; laughing, Ismail shares his son's age at line 6 before being congratulated by Julia, who exhales with surprise at the news. The sharing and reception of this news provides another example of the personal relationship shared by lawyer and client in this case.

The examples of interpersonal relations-related activity types discussed so far in this section 5.3.2 together illustrate the positive, close relationships that form between Julia and clients whom she works with over an extended period of time. As discussed in Chapter Two (section 2.3.2), the establishment of bonds of trust between lawyer and client is an important part of legal advice work, and one way in which this is done within the meetings in the data set is through allowing, even welcoming, the occasional shift within meetings to activities which involve more relational and personal conversations, stepping out of legal advice activity entirely. In these other activities, a different range of shared contexts from those relevant in legal advice and other professional task-related activities, pertaining to common personal experiences, are brought into the interaction, the sharing of which cements relational bonds between the parties. Third parties such as support workers and interpreters often take an active part in these conversations, as the topic and purpose of the conversational exchange shifts into discussion of more general human experience. Thus, and important for subsidiary RQ1.2, the impact of the context surrounding the talk on the interaction is significant as different identities become expressible and evident in talk.

A final interpersonal-relations related activity type was observed in the data, occurring only when Julia was absent from the room: the activity of small talk. I consider it important to mention this activity, because it provides another informative contrastive sample of communication taking place within the interactional space of the meeting room, but outside of the activity of legal advice, and contributes to the understanding of the nature of communication within the legal advice activity.

**(g) Small talk.** An activity consisting of small talk (talk which is neutral, accessible to all participants, non-person focused, and uncontroversial, Coupland & Ylanne-McEwan, 2000, p. 163) took place in five of the eight meetings, each time between parties present in each meeting (client, researcher, interpreter, NGO support worker) when the lawyer was out of the room printing documents or locating information. As noted in section 5.1, some recordings started after the meeting had already begun, or ended early, meaning that additional small talk may have been missed from the recorded data obtained. In Meetings 4 and 6 the level of small talk was minimal. In Meetings 1, 5 and 8, however, instances of small talk were more extensive. As an example, in Meeting 1, an exchange of personal biographical information centred around geographical place occurs between Khalid, Steve, myself and the interpreter. Steve has just commented on how surprising he finds it that the British authorities do not have a better understanding of Sudanese culture, Britain having formerly colonized Sudan. Khalid follows this up by volunteering some information about Steve to the interpreter:

*Data extract 29*

	Speaker	Original language	Translation to English
1	K	هو بالطبع كان في السودان لمدة 30 سنة كمدرسة لغة إنجليزية في منطقة مدني	for sure, he was in Sudan for 30 years as a teacher of English in Madani area
2	Int B	so he's just explained that you've been- [er: in Sudan like	
3	S	[yeah yeah (.) [yeah	
4	Int B	[f- thirty years ago?	
5	K	=thirty years	
6	S	=yeah	
7	R	[↑mmm	
8	Int B	[thirty years [ago	
9	K	[before	
10	Int B	as a teacher? (.) as an English teacher?	
11	S	=yeah >I was< so (.) just for eight months	
12	Int B	mmm	
13	S	yeah (..)	
14	R	how was that?	
15	S	it ↓was (.)	
16	R	interesting?	
17	S	interesting °yeah°	
18	R	I've never ↓been (.) to Su↓dan	
19	S	love to go back	
20	R	Egypt, that's the closest place	
21	K	مصر	Egypt
22	S	mmm	
23	Int B	have you been to Egypt?	
24	R	yeah but only (.) only on holi↓day °so°	

25	K	holiday, ah (.) >Sharm el Sheik<	
26	R	sort of yeah, um: (.) <u>Dahab</u> (.) I went to (.) so	
27	Int B	Dahab (.) [mmm	
28	K	[yeah	
29	R	south from Sharm el Sheik	
30	K	(xxx) مصر (xxxx) Egypt	
31	Int B	my <u>mum</u> is Egyptian	
32	R	↑oh o↓kay	
33	S	=↑oh right okay °yeah°	
34	Int B	I- I am Libyan	
35	R	mmm	
36	S	yeah	
37	Int B	yeah (.) so-	
38	K	(ليبيا؟) (Libya?)	
39	Int B	yeah	
40	K	↑yeah mmm	
41	Int B	<u>my</u> sisters are >married in Egypt< as well	
42	R	okay	
43	Int B	b- I haven't been there sinc:e (..) two thousand and five	
44	K	لكن هل تعيشين في ليبيا أو مصر؟	but do you live in Libya or Egypt now?
45	Int B	um: (.) when we got married (.) we went to Egypt once and then we had (..) our daughter and then (.) like a <u>year</u>	
46	K	a year?	
47	Int B	بعد سنة حضرنا إلى هنا	after one year, we came here
48	Int B	so we came like (.) we came >to the UK< so we here- (.)we're here for (.) <u>eight</u> years now	

Meeting one transcript, 53:40 – 55:01

In this excerpt of small talk, the participants adopt more personal interactional roles of people with a connection to places, contrasting sharply with the roles they enact in the legal advice activity as described in section 5.2.1. For example, the interpreter joins in the talk as 'principal' and 'author' (Goffman, 1981a), and I also join the conversation. The shift in topic and roles is accompanied by a marked shift in the linguistic resources used, with no formal interpreting as such in evidence. Instead, Khalid uses his L2 English skills of receptive comprehension (evident in his voiced responses at lines 21, 25, 38, and 46) and linguistic production (at lines 5, 9, and 46) to follow and join in the English talk, and both Khalid and the interpreter mix English and Arabic languages in their talk. In their language mixing choices, the Arabic speakers are perhaps trying to behave inclusively towards myself and Steve, (both learners of Arabic, as Khalid and the interpreter know from previous conversations), or perhaps they are simply responding to the less formal interactional environment. The talk features more overlaps, and more active use of acknowledgement tokens, than is observed in the different phases and discourse types evident in the legal advice activity.

**Analysis.** This section of small talk, featuring the participants searching for and identifying shared experiences of geographical place, can be seen as an example of the identification and bringing forward of common ground, or contexts that are shared between interactants. This is a feature of relational work in interpersonal interaction (Brown & Levinson, 1987), here serving to build positive bonds of trust across linguistic and cultural divides, and demonstrates, in relation to subsidiary RQ1.2 and in the same way as the other examples of interpersonal relations-related activity types above, how the bringing-about of new contexts can alter the dynamic of an interaction.

Through including the small talk in analysis, a different perspective on subsidiary RQ1.1, or what communicative resources each of the parties brings to the interaction, is opened up. Khalid's receptive competence in English is seen to be greater than might have been assumed, based solely on the interpreted interaction that takes place in the legal advice-giving parts of the meeting, although the topics of interaction are straightforward and characteristic of language taught to beginner and elementary level learners. The small talk activity within the data serves to give myself as analyst a richer (although of course still incomplete) understanding of this client's communicative resources. The same applies to other meetings in the data set, such as Meeting 8 with Mebratu in which extensive small talk illustrated Mebratu's productive competence in English more fully. These examples highlight that the participant's 'allowable contribution' (Levinson, 1979, p. 368) and interactional role are constrained within the activity type of legal advice-giving, allowing that person to externalise as linguistic practices only some of their internal linguistic resources. In other activity types the same person may be able to occupy a different role and externalize a wider, or different, range of communicative resources. Data, and thus research findings, are always situated and should never be taken as comprehensive.

### **5.3.3 Discussion of analysis of phases of additional activity types**

The analysis presented in this section 5.3 of the range of additional activity types present in the eight meetings in the data brings additional perspectives to the understanding of refugee family reunion legal advice interaction arrived at in the previous section 5.2. Changes in activity triggered changes in interactional roles, in communicative resources, and in the dynamics of control and agency, as well as sometimes bringing new contexts into the interaction. Three key points arise of importance for the primary and subsidiary research questions in this study.

#### **Additional interactional hybridity**

Firstly, in every case except for small talk (during which the lawyer was not involved in the talk), the additional activity types either directly or indirectly complement the legal advice-giving activity. In the data, shifts into additional activity types which are functional and task-related (witness statement preparation, form filling, advice on language) are executed (or “keyed”, Goffman, 1974) by the lawyer for distinct purposes to support or implement the legal advice. Shifts into additional activity types which are relational (discussing parenthood, family reunion stories, personal updates, and small talk) are more often executed by other parties to the interaction, but (apart from small talk, which takes place in her absence) are supported and engaged in by the lawyer, perhaps because she recognizes their contribution to making interpersonal connections across the various linguistic and cultural divides. They function either, in the case of professional task-related activities, to action prior legal advice or to support such auctioning; or, in the case of interpersonal-relations related activities, to strengthen interpersonal relations between meeting participants.

Thus, legal advice activity is supported by other activities engaged in during the meetings analysed, and there is additional ‘interactional hybridity’ (Sarangi, 2000, p. 2) present within meetings, over and above that which has already been identified in section 5.2. The CAT of legal advice-giving is seen to ‘leak’ (Lefstein & Snell, 2011, p. 41), or possess ‘frames within frames’ (Linell, 2010, p. 53). This flexibility and fuzziness of the legal advice CAT is seen in the data to directly support multilingual and intercultural interaction, since activities such as the lawyer obtaining advice on language from the interpreter, and the discussion of the shared human experience of parenthood, allow participants to bridge linguistic and cultural divides. The flexibility and hybridity of the discursive structure of these legal advice meetings is shown once again to be an important asset for successful multilingual and intercultural communication within them.

### **Contrastive internal interactional organisations**

Secondly, each of the additional activity types exhibit marked differences in ‘framing dimensions’ and ‘internal interactional organisations’ (Linell, 2010, p. 43) from the previously discussed communicative activity type of legal advice-giving. These differences serve to contrastively highlight how individuals communicate within the legal advice activity taking place in these refugee family reunion advice meetings.

In relation to **RQ1.1 – the communicative resources used**, the additional activity type analysis underlines again that the communicative resources used in interaction are closely tied to the

purpose of the interaction. In the data, when shifts into different activity types took place, the communicative resources drawn on also often shifted. In small talk in data extract 29, for example, higher levels of overlapping speech and use of acknowledgement tokens were evident in comparison with legal advice interaction, as well as a lack of interpretation and greater use of code-switching and second languages, reflecting the comparative informality of the communicative exchange and the more straightforward topics discussed in small talk. In the form filling activity in data extract 23, documents, pen and paper became central means of communication alongside curtailed verbal interaction. In the anecdote-telling activity in Meeting 1 (data extract 24), interpreting becomes more sporadic, reflecting the different focus and the more social nature of talk. Comparing these activities with the legal advice activity analysed in section 5.2 shows that a generally narrower range of communicative resources is used in legal advice interaction, albeit that there is variety present within that range.

There is a connection here also with the other subsidiary research questions **RQ1.2 - the contexts which frame and impact on interaction**, and **RQ1.3 – the dynamics of control and agency in interaction**, in that a shift in activity often brings a new context unconnected to legal advice into the interaction, in turn triggering a change in *interactional role* and *allowable contributions* for each participant (see section 5.2.1). For example, in some of the additional activity types analysed, the bringing in of a more everyday context such as family life, or personal connection with place, allowed participants including interpreter (who is generally silenced as an author of talk) and researcher, who were silenced during the legal advice activity, to assume roles of ‘author’ and speak for themselves. They were able to take up interactional roles which they would not have been so easily able to occupy within the legal advice activity. In data extracts 25 and 26, the shift into discussion of the parental experience also featured an interactional role change for the client, away from ‘client’ answering questions, and into ‘parent’ talking with other parents about his experience of parenthood. This was in turn marked by greater use of acknowledgement tokens by the interpreter as listener, paralinguistic markers of positive feeling such as warm tones of voice and laughter, and reciprocal participation on the same subject by other speakers who were also parents. Greater interactional agency on the part of client and interpreter was enabled through the shift in interactional roles.

It was notable that where interaction shifted beyond legal advice-giving into other activity types, the job of interpreting become more complex, or perhaps more ambiguously defined. For example, in the activity of sharing stories about family reunion (data extract 24), the conversation at first took place in English between Julia and Steve and it was not clear to the interpreter

whether or not she should be interpreting, requiring her to make her own decisions about this. The interpreters featuring in the data exercised agency in this way, and also by intervening in talk in order to clarify utterances or address communication issues, thus revealing how they are active participants in the interaction who play a key role in ensuring the success of communication (Corsellis, 2008; Wadensjö, 1998).

In addition, the data shows the interpreter taking interactional control in the Meeting 4 witness statement reading activity (data extract 21), with the lawyer stepping back to become a passive participant. This was highly unusual compared to the rest of the data, and contrastively highlights that in legal advice interaction, the lawyer is always active and in some degree of control of the interaction. As noted above, such contrastive comparisons can help to bring out more strongly the characteristics of legal advice activity and their connection to participant roles and allowable contributions.

### **The legal advice CAT as a constraint**

Finally, from the analytic perspective, sometimes the shift in activity type, bringing these changes in interactional roles and allowable contributions allowed participants to make use of a different, wider range of linguistic resources within interactions. This occurred within the small talk activity in particular, as noted above, but also within the telling of personal experiences or anecdotes (data extract 24). These shifts “open up” the data to reveal glimpses of the range of other ways of being and communicating that each participant is capable of outside of the legal advice activity.

The interactional constraints operating during the legal advice activity are thus brought to the fore. The analyst must recognise that the purpose-driven legal advice CAT, although it supports and facilitates the seeking and giving of legal advice, also functions as a constraint on participants, preventing them from externalising and expressing certain identities or ideas. Allowing other activities to enter into the interactional space of the meeting provides opportunities for everyone present to see and get to know each other more as individuals, beyond the narrow roles that accompany the legal advice setting.

## **5.4 Summary and conclusions**

### **5.4.1 Summary**

In this chapter I have presented and analysed data from a set of eight refugee family reunion advice meetings (detailed in section 5.1) between Julia and five different refugee clients, using

the analytical construct of communicative activity type to explore the discursive structure of the legal advice meeting and how the parties communicate interculturally and multilingually within it. I have analysed the range of activity types evident in these meetings, drawing on a combination of Linell's (2010) model of communicative activity type (CAT), and Sarangi's (2000) conceptualization of different discourse types being embedded within activity types. My analysis in section 5.2 focused on the discursive structure and characteristics of the main legal advice activity type evident in the data, bringing out the importance of this structure for the success of intercultural and multilingual communication. In section 5.3, I then discussed a range of additional activity types identified in the data, and which underline the hybridity of legal advice communication and the communicative flexibility that is required for successful intercultural and multilingual legal advice giving.

#### **5.4.2 Conclusions**

The findings discussed and described in this chapter confirm modern theories of genre or activity type which (encompassing ideas of intertextuality, Bauman, 2006) see this construct as fluid or fuzzy. They show that this more fluid view of activity type can apply in institutional settings, as Lefstein and Snell (2011) have found in the educational context. In this context, Sarangi's view that instead of describing defining characteristics of an activity type as 'constraints' (Levinson, 1979, p. 368), they should rather be regarded as 'strategies' for interaction (Sarangi, 2000, p. 5), is perhaps useful. The point being made here is that the characteristics of the activity type guide how interaction usually takes place within it, but moves outside these characteristics are possible – for example, by shifting the interaction into a new activity type – and these 'strategies' or shifts in activity type can be employed in the service of the overall purpose of the interaction. I would argue that this more fluid approach to structured institutional communication is particularly relevant in multilingual and intercultural interactions, where flexibility is often called for. As Corsellis points out, in dealing with unexpected happenings in communication, 'intercultural grace demands generosity of spirit as well as an understanding of what is really happening' (Corsellis, 2008, p. 131).

By way of further conclusion, I would like to contrast the findings in this chapter with the argument advanced by Gumperz (1992) that genres are culturally-specific, and pose communicative challenges for those unfamiliar with the culture associated with the genre, particularly in institutional settings. Gumperz's study of intercultural job interview interactions concluded that the genre of the British job interview was culturally-specific, and that cultural differences in communication style negatively affected the outcome of interviews for participants



not from British cultural backgrounds unfamiliar with the genre. In contrast, my analysis has demonstrated that considerable communicative flexibility is evident in the refugee family reunion legal advice interactions featured in the data, and that linguistic and cultural differences can be accommodated. Communication in these meetings is clearly guided by a recognizable communicative activity type, but within this, participants accommodate communicative differences and co-operate to negotiate shared meanings wherever possible, and they also sometimes step out of it.

The refugee family reunion legal advice interactions differ from the job interviews studied by Gumperz in a number of key aspects, which explain this contrast. Firstly, these legal advice meetings are not gatekeeping interactions, but rather meetings with the expressly co-operative purpose of achieving shared understanding about how the law affects the client. Secondly, the communicative goals of all participants are aligned in pursuit of this clear, practical purpose, such that the degree of communicative cooperation and mutual accommodation is perhaps not surprising. Thirdly, and as noted in Chapter Four, clients are not complete 'cultural outsiders', in that they are all refugees and have been through the legal and institutional process of applying for asylum in the UK already, coming now to apply for refugee family reunion. Some clients had already applied for family reunion visas once. Through these prior interactions, clients are likely to have acquired some partial discursive resources (Risager, 2006, p. 144) and possibly also linguistic and languacultural resources (p. 80) relating to the two relevant contexts of UKVI's systems and processes, and the communicative and working practices of British immigration lawyers; the data included some examples of clients drawing on these partial resources in their communicative practices. Fourthly, the lawyer in this case study is an experienced practitioner, with several years of practice at communicating interculturally and multilingually with clients, and the data illustrate how she purposefully employs a range of linguistic and discursive strategies for successful communication.

The refugee family reunion legal advice activity type explored here is culturally grounded in that (as evidenced by the purpose, topic and clear interactional patterns and speaker roles in the data) it is tied to the institutional cultures of the law and legal advice-giving. However, I argue that two key characteristics of the activity type of legal advice-giving as applied in this context are in fact *communicative flexibility* and *the ability to accommodate to those who are cultural unfamiliar*, in that (a) a range of communicative behaviours are permitted in the interactional space, provided they advance the broad purpose of the meeting in some way; and (b) one purpose of the meeting is to familiarise the client with the institutional and legal 'culture' of refugee family reunion law,

with explanations of how processes work and what key terms mean being a normal part of the interaction. This requires lawyers, and others regularly operating within the space such as support workers and interpreters, to be capable of communicating flexibly themselves, switching activities and discourse types as needed, recognising the extent of the client's cultural and linguistic resources, and accommodating to the right level through their own language use, levels of complexity of explanation, and interpersonal behaviours. In this, refugee and asylum legal advice meetings are inherently sites of intercultural and multilingual communication.

## **Chapter Six: Intertextuality in the delivery of advice – legal advice-giving in late stage asylum cases**

In this second findings chapter, I examine advice meetings in which Julia advises clients who do not have refugee status, or any other kind of leave to remain in the UK, even after having been in the UK for some time and having sometimes made several asylum applications. Clients seek Julia's advice on what, if anything, they can do to progress their claims. Within meetings of this kind, the initial analysis showed that (in contrast to the family reunion advice meetings described in Chapter Five) the parties are overwhelmingly engaged in the activity type of legal advice-giving, with very few other activity types being evidenced.

A different aspect of the legal advice communication is, however, highly visible in these late-stage asylum advice meetings: the dependence of all the parties, but particularly Julia, on documents and other kinds of texts to inform and support the advice-giving process. As discussed in Chapter Two (section 2.3.2), the interdependence of talk and text is a defining feature of all legal communication, (Eades, 2010; Heffer, Rock, & Conley, 2013). This interdependence is primary to the interaction in this data set - in half of the meetings observed and recorded, Julia literally cannot advise the client because she does not have copies of key documentation about the client's case, and discussion centres on how best to obtain these documents and what helpful information they might contain. In the other meetings, documents brought to the meeting by the client serve as information conduits, replacing much of the initial questioning through which Julia obtains information before advising the client. The advice-giving in all meetings also draws on, and is framed by, a range of institutional texts such as previous decisions in the client's case, significant interactions and institutional records thereof which form part of the client's case history, and legislation and case law.

Furthermore, the intertextuality (Blommaert, 2005; Fairclough, 1992; Rock, 2013) evident in the data goes beyond the dichotomy of oral and written. In all meetings, texts of various kinds, including not only written documents but also for example oral reports of past events, are extensively referenced and brought into advice-giving in processes of recontextualization (Bauman & Briggs, 1990; Blommaert, 2005). Texts of all kinds are 'part of the action' (Smith, 2006a, p. 65) in fundamental ways. To answer my primary research question of how communication takes place interculturally and multilingually among participants in an asylum and refugee legal advice meeting setting, therefore, in this chapter I shift my analytic focus from activity type to examine how intertextuality operates in late-stage asylum advice. I use a form of

transcontextual analysis, drawing on the analytical approach of institutional ethnography (Rock, 2013; Smith, 2005), as described in Chapter Three (section 3.4) and Chapter Four (section 4.3.2).

Addressing subsidiary RQ1.1 (how does communication take place within meetings, and what communicative resources are brought along and drawn upon?), I discuss the varied roles that texts of different kinds play as communicative resources in the data, seeking to identify patterns in how different kinds of texts are drawn upon in communication, in different ways. This links into subsidiary RQ1.2 (what contexts frame and are relevant to the interaction, and how do they impact on communication?), by exploring how texts can function as tools of contextualization (Gumperz, 1982a), or can be brought into interactions through contextualization work, in this setting. The discussion also responds to subsidiary RQ1.3 (how do individuals exert and resist control, and exercise agency, through their communication?) by illustrating how texts, in the form of laws, rules, guidelines, and institutional records of prior events ('regulatory texts' in Smith's (2006a, p. 79) terms), can either constrain or enable action within this particular legal and institutional context.

In section 6.1 I preview the data set of six meetings which this chapter draws upon, and explain my rationale for selecting two of these advice meetings for close analysis. In section 6.2, I analyse interaction taking place in the first of these advice meetings: a meeting in which case documentation is available to the lawyer, and advice is delivered using English only (albeit different varieties are in use) but across the linguistic and cultural borders of legal/lay interaction. This analysis focuses on the processes of information gathering (phase 2 of legal advice activity) and advising a client on his present legal position (phase 5 of legal advice activity). In section 6.3, I then analyse interaction from the second advice meeting considered: a multilingual meeting involving an interpreter in which key documentation is lacking, and in which the advice concerns future action that can be taken to obtain this documentation. The phases of legal advice activity that are the analytic focus here are phases 2 (information-gathering) and 8 (advice on next steps). In section 6.4, I integrate the textual analyses carried out in sections 6.2 and 6.3. I discuss the patterns of intertextuality emerging from these analyses, draw these together into a framework of the intertextual hierarchy that the data reveal is operating in this communicative context, and address how the analysis responds to the research questions framing the study. Finally, in section 6.5 I summarize the chapter, and highlight the major findings and conclusions drawn from this analytic work.

## 6.1 The data

In this section I introduce the data on which this chapter is based. The chapter is informed by a subset of my interactional audio data consisting of audio recordings, transcriptions and observational notes of six advice meetings, outlined in Table 6.1 below between Julia and six different clients, each in the later stages of an asylum case. Five of the meetings were English language interactions, with the clients exhibiting a range of varieties and levels of proficiency in English. One meeting, Meeting 14, was with a male Mandarin Chinese-speaking client, interpreted by a female non-professional Chinese interpreter whom the client brought along with him to the meeting (this was pre-arranged). My observational notes from the meetings, and my ethnographic fieldwork at the advice service and at the NGO (see Chapter Four), also informed the analysis.

**Table 6.1 – interactional data, late-stage asylum advice meetings**

Meeting	Client (pseudonyms used)	Language(s)	Duration	Main purpose	Outcome
Meeting 9	Farshid male, Iranian	English	68 mins.	Advice on options after failure of fresh claim	client to make subject access request
Meeting 10	Esther female, Israeli	English	29 mins.	Advice on options after failure of judicial review	
Meeting 11	Opeyemi male, Nigerian	English	40 mins.	Advice on options after failure of fresh claim	client given advice on self-help remedies or further action to take themselves
Meeting 12	Elizabeth female, Angolan	English	34 mins.	Advice on options after withdrawal of appeal	
Meeting 13	Patience female, Ghanaian	English	63 mins.	Advice on options after failure of fresh claim	
Meeting 14	Bai male, Chinese	English Chinese (Int C)	46 mins.	Advice on obtaining client's case file	client to chase subject access request

These clients brought a range of personal and legal situations to Julia for advice, but all of them had been in the UK for several years, and had been refused asylum, sometimes more than once. During my participant observation, I noted that Julia has a challenging job to do in advising these

clients; she must assess the client's legal position, and advise them about this and about what options, if any, remain open to them for resolving their position under asylum law or any other applicable laws. Sometimes there is no way to help the client. Even where there are options for action, Julia must sometimes inform the client that the advice service cannot assist them with progressing any of these options. Often, difficult messages must be communicated sensitively.

Whilst different instances of the phenomena I describe in this chapter were observed in all six late-stage asylum advice meetings, due to limitations of space and in order to consider the operation of intertextuality in close detail, the analysis is focused on only two of the late stage asylum advice meetings, Meeting 11 and Meeting 14. These were chosen to contrast with each other in two ways: firstly, contrasting how intertextuality operates in a communicative space where one language only is in use (Meeting 11) with a space in which the interaction uses two languages and is interpreted (Meeting 14); and secondly, contrasting a situation where sufficient information is available to the lawyer for her to advise the client (Meeting 11) with a situation where the lack of access to case documentation means that no substantive advice can be offered to the client on his position (Meeting 14).

In my analysis of how texts are drawn upon in these two late-stage asylum advice meetings, I draw on the approaches of Rock (2013) and Smith (2005, 2006a) discussed in Chapter Three (see section 3.4), adapting these to the context of my data by including verbally reported events as texts as well as written documents. The analysis involves identifying instances of recontextualizations in the data, and for each one considering:

- what sort of action is being done (the function of the communicative exchange);
- what kind of text is being recontextualized (regulatory text, subordinate text, other document, or oral stretch of discourse; single text, or a series of linked texts);
- whether the text being drawn on is a prior text (existing before the advice meeting), current text (i.e. from within the advice meeting), or future/prospected text (not yet existing);
- whether the text being drawn on is explicitly mentioned or not; and
- who is the person doing the recontextualization work.

The goal is to identify patterns in how different kinds of texts from within and outside of the intertextual hierarchy surrounding the legal advice meeting are used in monolingual and multilingual legal advice communication, and what impact they have on this communication (see Chapter Four, section 4.3.2; Appendix M contains the full analysis). Such patterns reveal insights

into who is bringing what sort of communicative resources into these late-stage asylum advice meetings and how these are being made use of in legal advice communication (responding to subsidiary RQ1.1); what role texts and recontextualization processes play in defining and shaping the contexts that are relevant to legal advice communication (addressing subsidiary RQ1.2); and how differential accessibility to different relevant texts instrumentally shapes the dynamics of interactional control and agency in legal advice (replying to subsidiary RQ1.3).

## **6.2 Meeting 11 – advising Opeyemi from Nigeria**

In this section 6.2 I present an analysis of interaction taking place in Meeting 11, looking in section 6.2.1 at phase 2 (information-gathering) of the meeting and in section 6.2.2 at phase 5 (advice on the situation) of the legal advice activity type discussed in the preceding Chapter Five. In this meeting, advice is delivered in English but across the linguistic and cultural borders of legal/lay interaction, and Julia, who has access to key documentation in the client's case, draws on that documentation and on applicable 'regulatory texts' (Smith, 2006a, p. 79) of the law to analyse the client's position and explain this to him.

In the meeting the client, Opeyemi from Nigeria, seeks advice on his options following rejection of a fresh claim for asylum. Opeyemi attends the advice meeting alone. This is Opeyemi's first visit to the advice service, and his first meeting with Julia. He is dressed in jeans, a green jacket, and a tartan scarf; during the meeting he sits on the opposite side of the circular meeting table from Julia, face to face with her. I am sat about halfway between them, taking notes and observing. Opeyemi appears to have first language command of Nigerian English. It can be assumed that, like most Nigerians, he is multilingual and also has other linguistic resources (his name is a Yoruba name), but they are not evident or relevant in the interaction. English is the only language used, and although different varieties are spoken by Julia and Opeyemi, they appear to understand each other with no obvious linguistic variety-related misunderstandings. The major dimension of intercultural and multilingual communication relevant here is therefore the lay/legal divide between Opeyemi and Julia.

Opeyemi brings copies of key documents from his case history and concerning his current position to the meeting, which he carries in a bag and takes out when asked by Julia for them. These documents underpin the advice meeting, largely informing Julia about Opeyemi's position without the need for many questions (I was not able to obtain copies of these documents, or see them myself). The advice given covers Opeyemi's options following the rejection, and actions that he could take to gather evidence to fight a deportation order issued in respect of himself and

his family. A wide range of documents are drawn on during the course of the meeting in various ways, but other texts and discourses (past, current, and future) are also extensively referenced, recontextualized and brought into the advice-giving and receiving activity.

### **6.2.1 Interviewing the client and obtaining information**

In this section 6.2.1 I discuss the range of manifestations of intertextuality appearing during communication in the short initial information-gathering stage of the meeting. Various prior (pre-existing) texts, namely case documents and narrative re-tellings of key events in the case and other associated events, are brought into the meeting by the client, Opeyemi, in oral and documentary form (RQ1.1). Documents are drawn on by Julia, and narratives are used by Opeyemi, to inform Julia about the legal and non-legal contexts affecting Opeyemi (RQ1.1 and 1.2). Thus, a greater shared understanding of Opeyemi's current situation is constructed through Opeyemi being enabled to share his experiences with Julia in this phase of the meeting (RQ1.3).

#### **Opeyemi's legal situation: information transfer through case documents**

Julia starts this phase of the meeting by making a direct request for the most recent asylum decision, the regulatory text most likely to give her information about the current legal position in Opeyemi's case: 'okay, have you got the last decision (.) with you?' (Meeting eleven transcript, 00:00 – 00:02). The 'last decision' is the decision rejecting Opeyemi's latest submissions to UKVI as a fresh claim for asylum, which he has received by post. Opeyemi gets a paper copy of this out of his bag and passes it over to Julia, and there follows around four minutes of silence, punctuated only by a couple of side comments from Julia, as she reads through the decision. A refusal decision will summarize the whole history of the individual's case, as part of the presentation of the reasons for refusing the current claim, and Julia gathers a lot of contextualizing information about Opeyemi's claim from the document. The sharing of the document (which, as discussed in Chapter Five in relation to RQ1.1, is a communicative resource regularly used in this phase of legal advice interaction) builds, within a very short space of time, a rich and important shared context for the subsequent interaction between Julia and Opeyemi (relevant to RQ1.2). That context is the history (from the institutional standpoint of legal decision-makers) of Opeyemi's asylum claim. The key points emerging from this document that shape the rest of the advice interaction are summarized here (drawing on both the transcript of the entire meeting and my own ethnographic knowledge of the usual format and contents of such decisions):



- Opeyemi's claim is based (at least in part) on the fact that in Nigeria, female genital mutilation (FGM) is widely practiced, and if he were to return there with his family his young daughter would be at risk of having FGM practiced on her.
- In Opeyemi's substantive asylum interview with UKVI, he was asked whether FGM was practiced in his wife's family. He said no, even though he knew that his wife had undergone FGM.
- Opeyemi was refused asylum, and at least part of the decision rested on the fact that the decision maker did not believe that Opeyemi was telling the truth – there was a negative credibility finding (see Appendix A for information about credibility in asylum processes).
- Opeyemi appealed against the refusal, and the appeal hearing took place in 2014. Opeyemi brought a doctor's report to the hearing confirming that his wife had in fact undergone FGM but UKVI petitioned for this not to be taken into account as evidence. The appeal judge focused on the issue of FGM in his determination but the appeal was dismissed (the credibility finding was related to this).
- Following the dismissal of the appeal, Opeyemi submitted a fresh claim, supported by some original letters from Nigeria giving further detail about the FGM risk to his daughter.
- The fresh claim has been rejected, on the grounds that the letters are 'self-serving evidence' from an unreliable source and are therefore not significant enough to be considered.

### **Opeyemi's daughter's health: bringing in a new context through narrative**

The information that Julia gains from reading the decision gives her a good understanding of Opeyemi's position from a legal perspective. As a consequence, she asks only one question to elicit further information from Opeyemi: the age of his daughter now. Opeyemi answers (eleven years), but does not stop there - the breaking of the silence by the question and answer exchange opens the floor for him to raise the key issue not apparent from the documents which is troubling him, and which has brought him to see Julia. This is the question of his daughter's mental health and how it has been impacted by events. Having given his daughter's age, he continues after a short pause:

### Data extract 30

	Speaker	Original language
1	O	(3) and since the last time in two thousand and fourteen we went to the court
2	J	uh huh
3	O	she's been going through a lot of stress (.) because she heard me when I was talking to the judge about circumcision (.) and she saw the (.) evidence I brought to the court she know (.) went to read it (.) she's been going through she couldn't sleep (.) I've been going to the GP to collect the sleeping (.)
4	J	uh huh
5	O	tablets for her since then

Meeting eleven transcript, 04:39 – 05:02

In this extract, Opeyemi orally recontextualizes the appeal hearing, a previous discursive event central to the legal decision-making about his claim, in order to narrate the impact of this event on his daughter. At the hearing, the issue of FGM practices in Nigeria was discussed in his daughter's presence. Opeyemi first frames his comments as being about his daughter's experience by commenting (lines 1 and 3) that since the appeal hearing, his daughter has been going through a lot of stress. This framing of the reporting of a past event is similar to the framing of reported speech described by Buttny (1998), in which he characterized certain scene-setting comments that precede or immediately follow reported speech as 'contextual framing components' (Buttny, 1998, p. 53) designed to tell hearers how to hear the reported speech. Opeyemi is here using this linguistic device as a communicative resource (RQ1.1) to bring the context of his daughter's mental health into the legal advice meeting (RQ1.2). Opeyemi's next words recontextualize the appeal hearing from his daughter's perspective: 'she heard me when I was talking to the judge about circumcision (.) and she saw the (.) evidence I brought to the court she know (.) went to read it' (line 3). As well as reconstructing an *oral discursive event* – the court hearing – this comment also refers specifically to a *written text* involved in that process, the documentary evidence about FGM having been practiced on his wife that Opeyemi presented to court. Opeyemi then recounts how his daughter was affected by this:- she was unable to sleep and had to start taking sleeping tablets prescribed by the GP. Whilst the two texts of the oral hearing and the written evidence are both key to the wider communicative chain of decision making about the claim, and were oriented primarily towards that function, the recontextualization brings in to the legal advice meeting a separate consequence arising from the hearing (the daughter's stress). This highlights how texts can operate in multiple ways simultaneously, with individuals other than the intended audience for the text (overhearers, in Goffman's (1959) terms) being impacted in an often unforeseen manner. Data extract 30

illustrates Opeyemi bringing in a new aspect of a previous communicative event orally through narrative (RQ1.1) as context for the advice meeting which was not available to Julia previously (RQ1.2).

### **The family return meeting appointment: completing the picture**

Opeyemi then continues the temporal narrative to bring it up to date:

#### *Data extract 31*

	<b>Speaker</b>	<b>Original language</b>
1	O	and she in the health- with the help of the health visitor they been visiting her in the school
2	J	right
3	O	(xxxxxx) now recently we just receive a letter [(.) that they are having a meeting (.) to be told about family return (.)
4		[(sound of a document being taken out of an envelope and handled)]
5	O	now the thing now its started with (the) daughter again
6	J	yeah
7	O	I have to go and (.) start collecting (.) the tablets again for her she's been going through [a lot she (could er, now) (2)]
8	J	[mmm]

Meeting eleven transcript, 05:04 – 05:32

As he is speaking in line 3, Opeyemi takes out the letter he is talking about from an envelope and hands it to Julia to read. The letter contains an appointment for the family to meet with members of the UKVI family returns team to discuss the process of family return, by which process refused asylum applicants with families are deported back to their country of origin. Julia is informed about this upcoming meeting through two modes simultaneously – visually through reading the hard copy letter that she is handed, and orally from Opeyemi through his recontextualization of the letter's contents at line 3 – in an example of a 'text event' (Linell, 2010, p. 54) as already seen in Chapter Five. Opeyemi then tells Julia at line 7 that this discursive event (the receipt of the letter) has once again triggered his daughter's sleeping and stress problems.

### **Summary**

This is in effect the end of phase 2, the classic initial 'interviewing' phase of the meeting. Although brief, it is clear that in terms of subsidiary RQ1.1, asking what communicative resources are drawn on, information transfer from client to lawyer has occurred both through the sharing and reading of documents detailing the institutional position, and orally through narration of events and happenings surrounding these documents, all in English in this meeting. The documents involved

are the fresh claim refusal decision, a 'subordinate text' (Smith, 2006a, p. 84) in the intertextual hierarchy of UKVI asylum application processing, and a letter from the UKVI family returns team, a lower-order text in the same hierarchy. As highlighted above, both the documents and the oral reports contain important information enabling Julia to access the context of the history of Opeyemi's case, understand the situation and start advising Opeyemi about his legal position; responding to subsidiary RQ1.2 about relevant contexts and their impact, they are ways of bringing relevant contexts into the interaction and building a shared context, or a shared frame of understanding (Goffman, 1974), for the advice. The oral reports provide important context by recounting personal experiences of events; experiences which are not documented in the 'official' texts. The interplay between communicative resources (RQ1.1) and the bringing in of relevant contexts (RQ1.2) is evident – written and oral texts bring in different, but equally relevant, contexts for Julia to advise on. This also demonstrates, in relation to subsidiary RQ1.3 about interactional control and agency and as discussed in Chapter Five, the importance of client agency within the advice meeting, through the exercise of which clients can bring in important new information.

In section 6.2.2 below, the analysis shifts to phase 5, the advice-giving phase of the interview in which Julia advises Opeyemi on his legal position. The complementarity of the oral and the documentary observed in phase 2 remains evident in this phase.

### **6.2.2 Advising the client on his legal position**

This section 6.2.2 considers the meeting phase 5 of advising Opeyemi on the current position of his asylum claim. In this phase of legal advice activity, communication draws from and depends on a range of prior texts either referred to in talk or present as documents in the meeting, including the regulatory texts of laws, the subordinate texts of legal decisions, and significant events in the case which fed into those decisions. These texts are brought in to the communication either explicitly or implicitly for a range of purposes (RQ1.1). As also seen in Chapter Five, in this phase information is exchanged between lawyer and client to build a shared understanding, but in this meeting the focus is on how the client's position is constrained and defined by the intertextual chains of regulatory and subordinate texts circulating within the asylum decision making process and legal advice funding structures (RQ1.2). The analysis brings out how the lawyer's knowledge and expertise is necessary to untangle and make sense of the effect of these, and to identify the possibilities for action (RQ1.3).

#### **The constraining contexts of legal advice funding provision**

Julia begins her advice by commenting on the subordinate text (in Smith's (2005) terms) of the fresh claim refusal decision:

*Data extract 32*

	Speaker	Original language
1	J	I think (3) the problem that you've got (.) is that-
2	J	I (.) I I think this (.) decision's- (.) quite poor it's not very well constructed at all (.) from the Home Office
3	J	(.) but the only way to challenge this is by judicial review (...) um, which is not something that we do here (.) at [NAME OF ADVICE SERVICE] (.) um (..)
4	J	not on asy- asylum (.) applications unfortunately, um
5	J	(...) I think it would be difficult for you to get legal aid (.) for it too (.)
6	J	((inhales)) mainly because of the previous (.) credibility findings (...) um and that's in relation to your (.) to your first (.) case (2)

Meeting eleven transcript, 06:28 – 07:21

At line 2, Julia refers with the words 'this decision' to the decision document, which she has just finished reading. Through the recontextualization she gives Opeyemi her opinion of the decision as quite poorly written, but follows this with the negative advice at lines 3 and 4 that a challenge to the decision can only be mounted through a judicial review, but that the advice service doesn't take on judicial review work. Julia does not explain why here, although later on in the meeting she does return to the topic to explain to Opeyemi what judicial review is. Julia's advice recontextualizes in a hidden way the advice service's service provision policy documents, which are in turn governed by the regulatory texts of the funding agreements in place with funders for the different services offered. These form a key but hidden framing context for the interaction (subsidiary RQ1.2), in that they direct that the advice service will not offer support with judicial reviews. It illustrates starkly how Julia's capacity to act, and consequently the whole scope of the advice meeting, are constrained by these regulatory texts which frame and define the context of her advice-giving work – an example of institutional structures constraining individual agency (Giddens, 1984) that is important in this context for subsidiary RQ1.3. In another piece of negative advice at line 5, Julia tells Opeyemi that she thinks he would struggle to get legal aid to pay for a different lawyer to prepare a judicial review 'mainly because of the previous credibility findings' in relation to his first case (his first application for asylum). This reference to previous credibility findings is the first trace emerging in the interaction of the long intertextual chain that comprises Opeyemi's asylum process, and which has come to define him institutionally and constrain his options at this point. The law and institutional discourse around credibility in asylum

claims (see Appendix A) is another key context for this legal advice interaction, relevant to RQ1.2, and I return to this below (see discussion of data extract 35).

**Section 55: analysing the refusal document in terms of the law on child welfare**

Picking up first on another relevant law, Julia continues as follows:

*Data extract 33*

	Speaker	Original language
1	J	I don't think they've really considered (.) a lot about (.) the practice of of FGM at all (.) um, they haven't really addressed (..)
2		[((sound of papers being turned over))
3	J	[°won- I'm just (.) gonna have a quick look° but I can't see (..) that they have (.) looked at (6) yeah:
4	J	I- they've made a very brief reference to section fifty-five (.) which is basically the- (.) the um: (.) the duty to safeguard and promote the welfare of children (...)
5	J	um they have literally mentioned it once (.) in the whole decision (.) and that is something that they should be taking (.) a lot more seriously

Meeting eleven transcript, 07:28 – 08:16

In line 1 Julia refers to the lack of discussion in the refusal document (which she implicitly recontextualizes) of the issue of the risk of FGM faced by Opeyemi's daughter should they return to Nigeria. The fact that it is a child who is potentially at risk of persecution and not an adult (possibly compounded by Opeyemi's sharing of his daughter's health issues) leads Julia to consider the impact of a key regulatory text: section 55 of the Borders, Citizenship and Immigration Act 2009 (hereafter called "section 55"), under which legislative provision UKVI as a public body has a duty to safeguard and promote the welfare of children when making immigration and asylum decisions (see Appendix N for the full text). At line 1, and based on her reading of the decision a few minutes earlier, Julia starts to advise that 'they [UKVI] haven't really addressed (...)' this duty in their decision. She stops herself however to check over the decision document again, looking for a written mention of the legislative provision somewhere, and combining this action (audible in the sound of papers being moved at line 2) with a meta-commentary at line 3, telling Opeyemi what she is doing: 'I'm just (.) gonna have a quick look'. After a short silence she tells Opeyemi that the refusal only briefly refers to the duty (lines 4 and 5), performing yet another recontextualization of some of the contents of the refusal document.

In line 4, three recontextualizations in fact appear in close succession, which illustrate how the institutional regulatory texts of the law surround and contextualize the advice (RQ1.2) and are

brought into it and explained in talk by the lawyer (RQ1.1), who has the necessary cultural capital (Bourdieu, 1972) to do so in the form of knowledge of these laws (RQ1.3). It is instructive to break them down more closely:

[they've made a very brief reference to]<sup>1</sup> [section fifty-five]<sup>2</sup> (.) [which is basically the-  
(.) the um: (.) the duty to safeguard and promote the welfare of children]<sup>3</sup>

Recontextualization 1 is an example of discussion of a document which is present in the meeting. It is an explicit, transmodal (writing to speech), intertextual recontextualization of the written prior text of the refusal decision. The content of the refusal decision is brought into the advice.

Recontextualization 2 is an example of using (referring to or drawing on) legislation or case law in giving advice. This is a semi-explicit, transmodal (writing to speech), intertextual recontextualization of the written generic prior text of section 55. It is semi-explicit because Julia does not give the name of the Act that this section is part of, or cite the contents of the section – instead she refers to what is a complex and multi-layered legislative provision simply as 'section 55', using a piece of 'legalese' (Gibbons, 2003, p. 198). Due to their training and experience, immigration and asylum lawyers will know what is being referred to by 'section 55' without further explanation (this is part of the immigration law languaculture), and this is the sense in which Julia uses the term here – the meaning will be clear to Julia, but may not be clear to others less familiar with the jargon. It is not clear from the data whether Opeyemi understands what is meant by 'section 55' as a term used on its own.

Recontextualization 3 is an example of talking about or referring to a prior stretch of talk in the same meeting. This is an explicit, unimodal (speech to speech), intratextual recontextualization of a current piece of text - the immediately preceding reference that Julia has made to section 55. Julia here explains in lay language the meaning of the legal term she has just used, so that Opeyemi understands her advice, in what could be characterized as a form of interpretation, translation or cultural mediation.

At line 5, Julia once again recontextualizes the reference to section 55 in the refusal decision, saying 'they have literally mentioned it once', and then makes a more general point that UKVI should be considering section 55 more seriously than this. It is notable that in this line 5, given the naming and explanation of section 55 in the preceding line 4, Julia refers to section 55 deictically using 'it' and 'that'. Deixis (using an indeterminate linguistic sign form to denote meaning by reference to an object that is unidentified in the sentence) is a form of indexicality, and thus will always imply a recontextualization (Silverstein, 1992, p. 55).

The above analysis of data extract 33 has shown how Julia combines use of, and references to, the refusal decision (a legally significant document which is present in the meeting, the client having brought it there) with explanation of relevant legislation and how it relates to the document in her advice-giving, involving multiple recontextualizations of different kinds. The extract illustrates two key skills of lawyering in action: firstly, applying law to facts (in this example, applying the duty imposed by section 55 to the ‘fact’ of the refusal decision and what UKVI has or has not taken into account in making that decision, in the manner of the intertextual circles described by Smith (2006a), see Chapter Three, section 3.4.3 and Figure 3.2); and secondly, explaining this application of law to facts to a client. Both of these involve complex intertextuality on a number of different levels, and both require the translation of specialist linguistic (languacultural) and discursive resources into lay terms. The extract also illustrates the interdependence of talk and text in legal settings, showing in relation to subsidiary RQ1.1 how two texts, the refusal document (a physically present document) and a relevant legislative provision (a legal regulatory text which is physically remote from the meeting setting but which structures and constrains it), are used *together with* talk as central means of communication in advice-giving. It is also possible to see how a range of relevant contexts (the practice of FGM in Nigeria; the process of decision making by UKVI on Opeyemi’s fresh claim; and the legal frameworks of child protection in the UK) are brought into the interaction, explicitly or implicitly, through these intertextual means (subsidiary RQ1.2), and how Julia is positioned as the expert, and the person in control, in this interaction because of her specialist knowledge of the various frameworks and how they relate to one another (subsidiary RQ1.3).

**Explaining specialist terms: immigration law languaculture**

In a change of topic, Julia then moves on to advise Opeyemi about UKVI’s stated reason for rejecting the fresh claim. This entails her explaining a specialist term encapsulating the institution’s approach to what constitutes credible corroborating evidence:

*Data extract 34*

	Speaker	Original language
1	J	the letters (.) that yo:u submitted (.) the original letters that came from Nigeria (.) um, it’s not unusual for em to dismiss (.) those type of letters
2	O	okay
3	J	um (.) they’re mainly regarding as (.) what they call <self-serving evidence> (.) mainly because it says what you want it to say (.) because what you want it to say is that <u>you</u> are at risk in Nigeria (.) and that’s what they say



- 4 O mmm
- 5 J it doesn't come from an independent source because the- (.) you know, quite often these letters come from friends or family (.) because it's only friends or family that would actually write the letters in the first place because it's very difficult to get (.) that kind of information from (.) any authorities (.) um because quite often it's the authorities that you actually fear ((exhales with smiling tone))
- 6 J so (.) yeah (.) it- (.) I'm not surprised at their approach to- to the evidence in that respect

Meeting eleven transcript, 08:23 – 09:13

In line 1, Julia again draws (this time implicitly) on her earlier reading of the subordinate text of the refusal decision (RQ1.1) to raise the subject of the original letters from Nigeria which Opeyemi submitted to UKVI in support of his fresh claim. At line 3, Julia explains why these letters were not considered significant new evidence sufficient for the application to be accepted as a fresh claim: slowing her speech to voice the key phrase, she says that they were regarded as 'self-serving evidence'. Whilst not legally defined, this phrase nevertheless has an accepted meaning within the UK asylum law context through its being used regularly by UKVI (and less often by judicial decision makers) to characterize evidence as unreliable. Evidence is argued to be 'self-serving' if it has been, or is suspected of having been, created or obtained for the sole or primary purpose of supporting the applicant's asylum claim (Right To Remain, 2016b). UKVI uses this as a reason for arguing that the evidence is not credible and should either be dismissed or given little evidential weight, although the asylum courts have criticized this approach, recognizing that in some cases such evidence may carry some weight even if it has been procured to support the case (Henderson & Pickup, 2014).

In lines 3 and 5, Julia draws on the whole legal and judicial discourse circulating around the meaning of 'self-serving evidence' in the UK asylum decision-making context to recontextualize this phrase and explain its meaning and implications to Opeyemi: 'it says what you want it to say'...'it doesn't come from an independent source'. In explaining why the difficulty in obtaining corroborating evidence for their claims means that this is often an issue faced by asylum applicants at line 5, Julia paralinguistically expresses her exasperation with the institutional position (and her affiliation with the position of applicants) through her use of tone, and emphasis on key words. Through this recontextualizing act of explaining the meaning of 'self-serving evidence', Julia's intention is to function as a kind of cultural mediator, drawing on what she assumes are non-shared discursive and languacultural resources to share with Opeyemi the 'immigration law culture' meaning of the term in order to help him to understand why his fresh claim was rejected. It is not clear from the data however whether this is how the explanation is

received by Opeyemi – he is largely silent throughout this interactional phase. It is possible that he may have come across the term already in his own asylum process, or those of others he knows, and already be a sort of ‘cultural insider’ in this respect. In any event, the explanation is Julia’s attempt to create a shared basis for understanding between herself and Opeyemi, illustrating again in relation to the research question how the legal advice meeting is a site for intercultural communication.

### **Building a richer picture: bringing in different perspectives on previous events in the case**

Having dealt with UKVI’s reason for rejecting the fresh claim application, Julia next turns to advising Opeyemi further on the treatment of the FGM aspect of the claim in the refusal document:

#### *Data extract 35*

	Speaker	Original language
1	J	I don’t think (.) they’ve really given (..) the issue about FGM* (..) a huge amount of consideration (..) now that <u>may</u> be because it has been- it was quite a focus in the <u>last</u> decision (.) um (2)
2	J	and a- e- ((exhales & inhales)) the way in which it’s <u>described</u> (.) in, when they talk about the: the previous determination the appeal determination (.) um (4)
3	J	they don’t seem to grasp (...) that it doesn’t <u>really</u> matter (.) um: (..) whether (.) you said it was practiced or <u>not</u> in your wife’s family
4	O	°but but they tell me° they ask me when I went for the interview
5	J	mmm
6	O	they ask me (.) you cut women (.) in my- (.) in my fa- in my <u>wife</u> ’s family
7	J	mmm
8	O	immediately (.) I knew they do it (.) but I’m e- (.) I don’t have any evidence
9	J	mmm
10	O	and evi- anything they ask, they need evidence
11	J	yeah
12	O	I say (.) they don’t do it (.) but I don’t know that that thing they would use it against me (.) they- I now went [to the GP
13	J	[°yeah°
14	O	to (.) have the evid- I believed that (.) if I <u>have</u> the evidence I can <u>send</u> it to them (.) I brought the evidence (.) I show it in court (.) immediately the Home Office lawyer say (.) to the judge that he should not consider the (.) evidence (.) I brought
15	J	yeah
16	O	and (.) we don’t talk (.) about it
17	J	yeah
18	O	I show the evidence that my wife (.) did it (.) but they did not consider it

- 19 J yeah (.) I mean er- (.) that- (.) like I say I think that- (.) they they've missed the point a little bit there (.) because the point is that (.) it doesn't matter what you sa: id (..) really
- 20 O yes
- 21 J because (.) i- if anything, the fact that your wife has (.) had, er: been you know- been f- forced to undergo the f- the FGM in the first place (.) um (.) suggests that your daughter would be (.) more at risk (.) not  
↓ less at risk
- 22 O ((whispered)) (so)
- 23 J regardless of what you said in your interview

\*Observation notes: 'as [Julia] talks, she has decision open on the page at relevant point and is gesturing to it with her hand'

Meeting eleven transcript, 09:15 – 11:22

To follow this interaction, contextual factors which are intertextually linked to this exchange on a number of levels, and across a range of spaces and times, must be factored in. Firstly, and underlying the whole exchange although not mentioned explicitly, is the overarching legal issue of credibility. This lies at the heart of Opeyemi's situation. The problem is that Opeyemi's first asylum claim was refused at least in part because his account of the risk of persecution that he fears was found not to be credible. From the data there is no way of knowing for certain why this was. However, it could have been related to the fact that although Opeyemi's claim was based on a risk of FGM being practiced on his daughter, Opeyemi (untruthfully) stated in his substantive asylum interview with UKVI that his wife had not undergone FGM. The result of the negative credibility finding has been that in the subsequent appeal and fresh claim application, decision makers have chosen to ignore or attach little weight to the substantive evidence of FGM practices in his wife's family that Opeyemi has presented. In this, they were supported by the legal framework which allows credibility findings to be taken into account in subsequent stages of a case (see Appendix A for further explanation). Julia has already referred to a further consequence of the negative credibility finding, that Opeyemi is unlikely to get legal aid to support a challenge to the refusal by judicial review (see data extract 32 above). The finding has 'stuck' to Opeyemi, labelling him, and any evidence he produces, untrustworthy in the eyes of the immigration authorities. In relation to subsidiary RQ1.2, the finding (taken together with the regulatory texts of the law which surround it) is a key context for the legal advice interaction which constrains the client's position, his options for action, and the nature of the advice that can be offered.

In data extract 35, Opeyemi and Julia both refer back to Opeyemi's substantive interview for his first asylum claim, where the credibility issue arose, recontextualizing this discursive event in different ways using their different resources. In lines 1, 2 and 3 Julia, who only has access to this discursive event through the text of the fresh claim refusal decision, orally reports and

recontextualizes the intertextual chain that is described in the refusal document, and which has developed over the three stages of Opeyemi's case. She addresses this chain in reverse chronological order, commenting first on the latest decision, the fresh claim refusal (which she gestures to as she speaks to indicate what it is she is speaking about): 'I don't think they've really given the issue about FGM a huge amount of consideration' (line 1). Julia then posits that one reason for this lack of attention to FGM in the latest decision may be because 'it was quite a focus in the last decision' (line 1), here referring in general terms to the 2014 appeal determination. In line 2 Julia refers to the appeal determination again, and makes clear with her comment 'the way in which it's described' (line 2) that she is recontextualizing an existing recontextualization, a description of the appeal decision that occurs in the fresh claim refusal decision. She then continues, at line 3 implicitly making the link back to what Opeyemi said in his interview for his first claim, the first stage of his asylum case. She talks about it, however, in terms of evaluating the information she has access to: the fresh claim refusal decision author's view on this event doesn't in her view 'seem to grasp' the central (legal) point that because actual evidence of FGM has now been provided in the form of the doctor's report, it shouldn't matter what Opeyemi originally said. The whole of Julia's commentary is a recontextualization, at times explicit but mostly implicit, of parts of the written text of the fresh claim refusal document – but because this document in itself entextualizes recontextualizations of significant prior events and texts, the commentary brings forth from Julia's perspective the entire institutional intertextual chain which has defined Opeyemi's position, and which frames and constrains her advice.

Responding to this commentary, Opeyemi takes a narrative turn at lines 4 to 18, in which he re-tells (and recontextualizes) these significant prior events from the different perspective of having lived through them. In doing this, and unlike Julia, Opeyemi can and does add his own reasoning processes to the narrative as additional context, explaining why it is that he did not tell the truth about his wife's FGM: 'I knew they do it (.) but I'm e- (.) I don't have any evidence... and evi- anything they ask, they need evidence' (lines 8 and 10). This disclosure, a good example of cognition functioning as context (Potter, 1998) and this being made visible through the reporting of a cognitive process as part of lived experience, reveals that Opeyemi's knowledge at that time of the evidential requirements in asylum claims - that if an assertion is made, evidence is requested to back this up - informed his decision not to tell the truth in response to the question he was posed. Whilst the law does not in fact require that documentary evidence must be provided to back up every point of an account, it is not an unreasonable view for an applicant (particularly someone who has not had access to any legal advice prior to an interview) to hold. At line 12, Opeyemi continues to enrich the narrative of events set out in the refusal document

with his own perspective, commenting again on his own knowledge and awareness at the time. He then narrates an additional event in the chain of events - visiting the family GP (doctor) to procure evidence that his wife had in fact undergone FGM, believing that this would be what UKVI needed to accept his claim as valid. However, at line 14 he reports the rejection of this evidence at the asylum appeal hearing (it is not clear from the data whether Opeyemi had any legal representation at the hearing). At lines 19 to 23, Julia responds to emphasise her previously made point that the key fact that Opeyemi's wife has undergone FGM has been missed by UKVI.

In this data extract 35, two distinct recontextualizations, from two different perspectives, of elements of the same intertextual chain are evident. The first (Julia's) is a transmodal (writing to speech) recontextualization based on a documentary source containing already entextualized (and therefore incomplete, and styled by a previous author) versions of the discursive events reported. It is an example of drawing on a document (the refusal decision) present in the meeting for advice-giving purposes, the purpose of which is to give an expert opinion of the adequacy of the official decision. In its production Julia has drawn on her expert resources to interpret and evaluate the work of UKVI in a way that Opeyemi is unable to do. The other recontextualization (Opeyemi's) is a unimodal (speech to speech) recontextualization of those same discursive events but told from the perspective of a person involved in those events. This is an example of talking about a series of prior discursive events, drawing on personal experience; it therefore includes additional information and context, intended to fill out the account and explain or justify Opeyemi's actions. In the same way as for data extract 30 when the impact of the court hearing on Opeyemi's daughter was narrated, these are parts of the intertextual chain that Julia does not have access to, except through Opeyemi's sharing of them orally within the meeting. Once again, and a key finding for subsidiary RQ1.2 that is also reflected in the previous Chapter Five, both lawyer and client contribute something to produce a more complete joint understanding of the chain of events, building an 'interindividual territory' (Voloshinov, 1973, p. 12) or shared context for the further advice out of previously non-shared contexts. This perhaps leads Opeyemi to feel that Julia understands his position, achieving relational ends, although unfortunately it does not make any practical difference to his position.

#### **Internal relocation: explaining the effect of the law in an accessible way**

Julia's further advice to Opeyemi (not included here due to space constraints) repeats the devastating and constraining consequences of the combination of the initial negative credibility finding, and the laws which enable decision makers to take this into account in considering later

applications. Julia then also covers the additional legal hurdle which Opeyemi faces - the rules on internal relocation, in the following advice:

*Data extract 36*

	Speaker	Original language
1	J	there are so many countries <u>now</u> where there are <u>difficulties</u> (.) in removing (.) but <u>Nigeria</u> 's not >one of them< (.) so they <u>can</u> easily remove people (..) er: to Nigeria um and (.) quite often the argument is it's such a big country, that even if they <u>had</u> accepted the risk (.) to your: to- to you and to the, to your children (.) um in your <u>home</u> area, so where the <u>families</u> are based (.) their argument is that you can always move to another <u>place</u> , so

Meeting eleven transcript, 13:35 – 14:12

In her advice in data extract 36, Julia implicitly references and recontextualizes Immigration Rule 339O, which derives from the text of the UN Refugee Convention itself and provides that if a person can escape persecution or the fear of persecution by relocating internally within their own country, the UK government will not grant them refugee status. In the same way as the section 55 example in data extract 33 above, this exemplifies Julia drawing on and recontextualizing a relevant legislative provision in her advice-giving, applying law to the facts of a client's case. Note that Julia does not actually cite the relevant law; instead she draws out the relevant information and presents this to Opeyemi in an accessible way, in an example of a participatory style of legal advice-giving (Dieckmann & Rojas-Lizana, 2016). In doing this, Julia draws on her legal knowledge (RQ1.2), and her discursive resources (RQ1.1), to re-frame the text of the law for Opeyemi. Opeyemi protests this assertion, arguing that a family is not able to hide in Nigeria and will be tracked down wherever in the country they go. In response Julia again draws on the regulatory text, but this time in a relational move, saying 'I know it's not as simple as that (.) I reall- honestly I do ... but (.) the Home Office (.) they can make that argument because that's what the law says (.)' (Meeting eleven transcript, 14:39 – 14:58). Here, Julia distinguishes between her own personal opinion, and what the law prescribes, but emphasises to the client in stark but honest advice that it is the law that matters. Julia here explicitly draws on the weight and authority of 'the law' as a discursive resource to support her argument, a new strategy of interest for subsidiary RQ1.1 that is (in relation to RQ1.3) amplified by her own authoritative interactional position as the lawyer.

**The constraining effect of the intertextual chain of asylum decision-making**

Finally, in relation to the way the law applies to Opeyemi's existing case, Julia gives her opinion that the nature of the risk has not been properly considered:

### Data extract 37

	Speaker	Original language
1	J	based on this decision I don't think they've fully considered the risk in relation to FGM (.) I don't think they under↑stand that it's a Convention reason (.) um it puts- (.) you know potentially it puts your, your daughter into a particular <u>social</u> group which is a Convention <u>reason</u> which is something that they <u>should</u> really look at in more detail (.) um
2	J	but they (.) because it's been mentioned in the in the <u>previous</u> appeals, um and a- it was discussed at some length by the the <u>immigration</u> judge (.) you know I I think what they're saying is well we've got no reason to go back and <u>change</u> what those findings were (.) um: (.) because ultimately they don't they don't <u>have</u> to, because they can- you know those negative findings they ((inhales)) you know as I've said to you <u>before</u> , they stay with you

Meeting eleven transcript, 16:10 – 17:03

Julia here makes use of legal texts and legal processes as context for her explanatory talk (RQ1.2). In line 1, Julia explicitly references and recontextualizes the text of Article 1 of the UN Refugee Convention, the overarching international law (or supreme regulatory text) which stipulates that membership of a particular (persecuted) social group may be grounds for refugee status. In line 2, however, Julia again explains to Opeyemi the stark consequences of the way in which the intertextual hierarchy of asylum decision making operates. Making use of paralinguistic signals of emphasis on key words for increased communicative impact (RQ1.1), Julia points out that the decision maker for this most recent refusal would have read the decision of the appeal judge (which discussed the FGM issue but found that there were no grounds to award asylum), and may well have felt entitled to follow that judgement in their decision to refuse the fresh claim, because of the appeal decision's status and position as a high-level subordinate text in the intertextual hierarchy. The recontextualizations here are once again multiple, including in this instance a previous reading of a prior text as part of the institutional intertextual chain; they reinforce how the entextualization and recontextualization of previous events is an inherent part of legal processes, including legal advice.

### Summary

Although Julia's meeting with Opeyemi continues for some while, I end my analysis of it here where phase 5, Julia's advice on how the law applies to Opeyemi's current legal position, concludes. The analysis in this section 6.2 has revealed that in lawyer-client communication in information-gathering and advice-giving phases of legal advice interaction, a wide range of forms of intertextuality are in play. The different communicative resources of documents and various forms of speech (RQ1.1) are used by both parties as tools of (re)contextualization to bring

different relevant contexts into the interaction (RQ1.2). A number of prior texts (drawn from different parts of the intertextual hierarchy and from different stages of Opeyemi's asylum process) are drawn on as communicative and contextualizing resources, both explicitly through reading and oral recounting, and implicitly through reformulations (Deppermann, 2011) or implied references, to bridge the pretextual gaps (Maryns & Blommaert, 2002) existing between lawyer and client. By counting not just written documents within the intertextual hierarchy of UKVI's asylum decision process, but also client retellings of prior oral events with a connection to such documents, and lawyer tellings of the accumulated professional knowledge (the cultural/discursive resources) of the lawyer, as "texts" available for recontextualization, it is possible to construct a more complete picture of how lawyer and client bring together their previously non-shared contexts and create a shared context in the interindividual territory of their interaction.

With regard to the dynamics of control and agency in communication (RQ1.3), it is clear that on the one hand, the lawyer has access to the legal and institutional knowledge required to make sense of what has happened in Opeyemi's claim, and is also in control of the interaction; but on the other, there are spaces within the interaction for the client to make contributions which bring important new contexts into the advice interaction. This illustrates again, as found in Chapter Five, the asymmetrical complementarity of the interactional pattern within this activity type (Linell, 2010) and the importance of the client's brought-along context (Auer, 1992) for the advice-giving activity. Perhaps the most significant context here, however, is the preceding chain of communicative events, entextualized in key documents in the UKVI intertextual hierarchy, which has institutionally defined Opeyemi's position. Through this process, Opeyemi is marked as 'not credible' and thereby denied the chance to have evidence considered that would potentially substantiate his claim. This context constrains Opeyemi's legal position, which impacts on the legal advice meeting by constraining what options Julia can offer him, and consequently affecting how she communicates her advice to him in the legal advice meeting.

The remainder of the meeting consists of discussion and exploration of strategies for further action, focusing on how Opeyemi can gather documentary evidence of the serious impact of the threat of impending deportation on his daughter's mental health (for example, support letters from the school nurse, health visitor, and family GP), in order to present this to UKVI staff at the upcoming family return process meeting. Underlying this strategy is Julia's earlier advice, that UKVI should be taking their section 55 duty to safeguard the welfare of children more seriously. Another option suggested is to explore the possibility of applying for an FGM banning order, a



very recently developed remedy under English family law to provide legal protection to those at risk of FGM. Finally, Julia and Opeyemi discuss the upcoming family return meeting, with Julia explaining to her client how this fits into the wider process of family removals, and how he can make use of the meeting to formally present to UKVI his arguments against the deportation of his family. These discussions focus on future events and texts, and recontextualizations of these: types of recontextualization which are also evidenced in Meeting 14, which I move to discuss in the next section 6.3.

### **6.3 Meeting 14 – advising Bai from China**

In this section 6.3 I present an analysis of interaction from the second advice meeting considered in this chapter, a multilingual meeting involving an interpreter in which all key documentation is lacking. The phases of legal advice activity that are discussed are phases 2 (information-gathering) in section 6.3.1, in which past texts and events are recontextualized; and phase 8 (advice on next steps) in section 6.3.2, in which advice centres on future actions that the client can take to address his situation, and responding to client questions. The analysis seeks to show firstly how future texts and events within the relevant regulatory frames feature in the legal advice communication, and secondly how all recontextualization processes are complicated by the triadic nature of the interpreted interaction.

The client, Bai from China, attends the advice service together with a female Chinese friend acting as a non-professional interpreter. I was not involved in the exchanges to set up the meeting, but am aware from my ethnographic observations in other cases (see Chapter Four) that clients were asked to bring friends or reliable contacts to interpret for initial meetings in order to conserve the budget for hiring professionals, and it is likely that this is what happened when Bai's appointment was booked. It is Bai's first visit to the advice service and the first time that Julia has met Bai and the interpreter. Julia therefore only has the basic information provided to the advice service staff when the appointment was booked, and recorded on the Client Record Form (see Chapter Four, section 4.5.2), to guide her in opening the meeting. Bai sits close to the door, with the interpreter right next to him; Julia and I are sat such that everyone is able to make eye contact with each other around the table. Bai speaks in Mandarin Chinese, often speaking in a low volume. My Research Assistant observed that he frequently spoke in Chinese in short or broken sentences or without clarity and also that his command of English appeared to be basic (observations of RA, 25 March and 18 April 2017). Julia uses English, and the interaction is interpreted by the interpreter, whose L2 English is communicatively adequate although it contains some lexical and grammatical

inaccuracies. Even when conversing in Chinese, the interpreter code-switches between Chinese and English at times, perhaps indicating that she has been in the UK for some time (observation of RA, 18 April 2017). As I discuss below, the interpreter appears to be quite familiar with the client – for example, she knows details about Bai’s personal history (but whether from a single prior briefing meeting between the two of them, or a longer period of association, it is impossible to tell). The interpreter frequently speaks for Bai or intervenes on his behalf, acting like a co-client (Ahmad, 2007) at times. She demonstrates a good knowledge of UK asylum and legal advice processes.

Bai does not have copies of any documents from his asylum case history with him. Because of this Julia is unable to give him any advice about his immigration position; she is rendered powerless by the lack of documentation. Bai is aware of this, and has already tried to obtain copies of his case files from UKVI. He has however experienced a long delay and has come to seek Julia’s advice on this. The meeting focuses on advising Bai on how he can challenge the delay and obtain his case records, so that Julia can review these and advise him at a later date. In contrast to Meeting 11 discussed above, very few documents are physically drawn upon in the interaction, and none that are substantive to Bai’s asylum case. Texts of various kinds are, however, extensively referenced and talked about in a similar way to Meeting 11, forming the focus of advice-giving interaction.

### **6.3.1 Interviewing the client about his situation**

In this section 6.3.1 I examine how intertextuality operates in triadic interpreted interaction during phase 2, the information-gathering phase of the meeting. In contrast to Meeting 11, no case documents are used in this meeting, and information-gathering takes place exclusively orally in English and Chinese. The interaction features question and answer sequences and client narratives, always mediated by the interpreter, focused on a series of prior texts from Bai’s case history (RQ1.1). These prior texts, and the questions designed to elicit information about them, bring the contexts of Bai’s journey into the UK and then through the asylum system, laws relevant to this, and Bai’s previous interactions with lawyers, into the communicative frame of the advice meeting (RQ1.2). Within the interaction, the interpreter works in an agentive manner as an active participant in the dialogue, drawing on her own knowledge and linguistic, languacultural and discursive resources to facilitate, and in some instances actively direct, the communication between lawyer and client (RQ1.3).

### **Using the Client Record Form as a resource in communication**

Julia commences the meeting after introductory formalities (not captured on the recording) by interviewing Bai using closed and open questions about his situation to gather information about the legal issues. Julia must rely on questions and the Client Record Form here, since Bai has brought no documents with him. The whole of this process comprises recontextualizations, as Julia asks Bai to tell her about past events (texts) – in effect, to recontextualize these prior events - and about the documents (e.g., decisions on asylum) that have flowed from them. Consequently, during this stage, a number of texts are referenced by different persons as the intertextual chain is investigated. In data extract 38 below, the very beginning of the meeting is shown:

*Data extract 38*

	Speaker	Original language	Translation to English
1	J	((missing audio)) a little bit of information but not a great deal (.) so I understand that you've been in the UK since around 2002, 2003 is that right?	
2	Int	你2002年还是2003年来的？大概那个时候是吗？	you came here in 2002 or 2003? Around that time right?
3	B	大概是01到02吧，我也记不得了。 [因为都十多年了]	about 2001 to 2002. I don't remember exactly. [Because it has been more than a decade]
4	Int	[he says is around 2001 [to 2002]	
5	J	[alright, alright=	
6	Int	=but (.) he can't remember exactly cause it's been too long	
7	J	okay (..) and um how did he first enter the UK? was it as a visitor or?	
8	Int	你第一次进来是怎么进来的？	how did you come here the first time?
9	B	就是(.) 通过朋友。	I (..) by a friend.
10	Int	你是(.)她朋友(.)她的意思是就是你是什么签证进来的？	you (.) she friend (.) she means which kind of visa did you use?
11	B	没有签证。	no visa.
12	Int	没有签证？	no visa?
13	B	对。	yes.

14	Int	he don't have a visa (.) when [he first entered	
15	J	so he entered illegally [oh right	
16	Int	°yeah°	

Meeting fourteen transcript, 00:00 – 00:49

Julia starts the meeting with the Client Record Form in front of her, and as in Meeting 2 in Chapter Five, this is the first text that she indirectly orients to in her talk, being the basis of her understanding of Bai's situation. She opens the consultation at line 1 with the comment that she has 'a little bit of information but not a great deal', before putting the first piece of information that she does have (Bai's approximate date of arrival in the UK) to Bai for verification. Julia here performs an explicit oral recontextualization of one of the pieces of information recorded in the Client Record Form – which document is itself an institutional entextualization of a prior oral conversation that Bai (or someone telephoning on his behalf) had with advice service staff on booking the appointment. Already, the data reveal an intertextual chain in operation, involving not only the extraction (or decontextualization) of a particular piece of information from its originating discourse and the re-embedding of this into a different stretch of discourse, but also the transformation of textual modes (speech to writing and back to speech) in the process. Bai responds at line 3, orally recontextualizing an event that took place in the past, saying that he came to the UK around 2001 to 2002, but that he can't remember exactly because it's been too long.

These recontextualizations function not only to verify information, but also to open the conversation in a situated way by linking this meeting transcontextually (Wortham & Reyes, 2015) with the client's previous contact with the advice service, and to establish the frame (Goffman, 1974) for the questions which follow. The Client Record Form document, a subordinate text within the regulatory frame of the advice service's intertextual hierarchy, is drawn on here as a communicative resource underlying the oral exchange (relevant to subsidiary RQ1.1) and a contextualizing tool linking the advice meeting with previous events in the client's history (important for subsidiary RQ1.2). The form plays an integral role in settling the client and starting to establish lawyer-client relations, as well as providing Julia with basic information.

### **Interpreter contextual knowledge and negotiating understanding**

Julia's next question (at line 7 of data extract 38), asking how Bai first entered the UK, is oriented to discovering Bai's immigration history. Julia is aware, however, that this question may have

another meaning for a lay audience, and in order to make the (legal) purpose behind her question clearer, she immediately adds a contextualizing comment, 'was it as a visitor or?'. With the word 'visitor', Julia implicitly references one of the range of categories of visa that persons legally entering the UK from China may use; the word thus functions as a contextualization cue (Gumperz, 1982a) indexing that this question is about Bai's immigration status on first entry, not about whether he came by aeroplane or by boat. In her initial interpretation at line 8, however, the interpreter misses out this contextualizing information. When at line 9 Bai responds 'by a friend', giving what the interpreter takes to be a 'dispreferred' answer (an answer that does not fit the expected range of responses to the question posed, ten Have, 2007, p. 137), the interpreter goes back to Bai to clarify her question at line 10, and obtain a more preferred answer, before interpreting this for Julia. In doing so, she transforms the implicit recontextualization into an explicit one, asking: 'she means which kind of visa did you use?'. Bai gives an explicit response 'no visa', which once interpreted establishes for Julia that he entered the country illegally.

The example illustrates how an implicit recontextualization of relevant law was used by Julia to frame a fact-finding question for the client, showing Julia's use of hidden discursive resources as a contextualization cue in her questioning (RQ1.1). It also reveals how the interpreter's intervention was needed to make this recontextualization explicit before it was understood by the client. The example displays the interpreter's contextual knowledge, or discursive and languacultural resources, about the UK immigration system and how lawyers talk about this, in that she recognized the contextualization cue and made explicit in translation the implied pragmatic meaning of Julia's comment in an additional turn-at-talk (line 10). This is an exercise of what Gumperz terms 'conversational inference', or 'the situated or context-bound process of interpretation, by means of which participants in an exchange assess each others' intentions, and on which they base their responses' (Gumperz, 1982a, p. 153). Here, the connection between the linguistic means of communication used (RQ1.1) and a specific context framing the meeting (RQ1.2) is evident, as the contextualizing question 'was it as a visitor?' is imbued with pragmatic meaning, requiring contextual knowledge about the institutional context of UK immigration visas and the languaculture used to describe these, to fully understand it. The non-professional interpreter in this instance displays deeper contextual knowledge than the professionals featured in the data in Chapter Five, and uses this contextual knowledge to quickly clarify a point of misunderstanding without taking the point back to the lawyer, illustrating the efficiency gains for communication of good contextual knowledge (and agentive use of this, of note for RQ1.3 about interactional control and agency) on the part of interpreters (Hale, 2007).

### Eliciting Bai's trajectory through the asylum system

Following on from data extract 38, Julia uses the linguistic resource (subsidiary RQ1.1) of questions to elicit more information from Bai. She asks a couple of focused (closed) questions to establish that Bai used an agent to enter the UK, and that he first claimed asylum in 2003 but was refused. Julia then employs a classic early stage legal interviewing technique of an open question designed to allow the client to impart more information in narrative form (Heslop, 2014): 'and since then what's happened?' (Meeting fourteen transcript, 01:17). This prompts a narrative filled with entextualizations of previous stretches of discourse, or pre-existing texts, that Bai brings in to the current interaction, some of which are highlighted in bold font in the following summary (transcript data are not included for reasons of space).

In a series of narrative turns which are more or less interpreted consecutively, with the interpreter prompting occasionally, Bai narrates that after being refused asylum initially in 2003, he was **asked to leave his accommodation** and he went underground, stopping **reporting to UKVI** and not receiving any **letters** that they sent him. In around 2007 he **heard from a friend** that he could apply again. When interpreting this to the lawyer, the interpreter refers to '**regulations**' that Bai heard about, embellishing his words, prompting Julia to respond '**legacy**?' in a question directed at the interpreter. The interpreter confirms that she thinks this is what Bai means, demonstrating in the process that she has a good contextual knowledge of the UK asylum system, being aware of the legacy process (described in Appendix A), and also that she may know more about Bai's case history than is actually disclosed by him in his talk-in-interaction. Bai made a **new application** at that stage in 2007 using a lawyer, and giving his address as premises above a takeaway restaurant run by a friend of his. The new application was **refused** after only a few weeks **because UKVI believed he was here to work**. As a result of this, Bai was **again asked to leave** the place where he was staying, and he moved to Scotland. In Scotland he eventually **got some more legal advice**, but was advised that because his claim had been made and determined in England, he would need someone in England to help him '**find the documents**' (translated as '**make the application** or something' by the interpreter).

### Interpreter mediation of client talk: communicating goals and issues

By saying 'then until now', Bai indicates that he has brought the story up to date; without interpreting this, however, the interpreter prompts him to say more about his current situation with a brief question in Chinese, 'now you are?'. With her untranslated prompt, the interpreter excludes Julia and almost takes over Julia's role as interviewer; something that happens more

than once in the interaction and evidences the interpreter's degree of interactional control within it – a point of importance for subsidiary RQ1.3. Her question brings out the immediate issue which Bai has come to seek advice about, described in data extract 39 below. This is (although Bai does not phrase it in these terms) that he has lost his case documents, and over six months ago he made an application through a subject access request (hereafter referred to as "SAR") under section 7 of the Data Protection Act 1998 to get a copy of his case file from UKVI, but he has still not received the file and he doesn't know why.

*Data extract 39*

	Speaker	Original language	Translation to English
1	B	现在呢，你就说，我就想重新申请，但是就掉资料。去年(.)现在应该有半年以上了吧，第一封信就说40天会处理。	now, you can say that I want to reapply, but the documents are lost. Last year (..) it should be more than half a year until now, that the first letter said that it would be processed within 40 days.
2	Int	什么时候第一封信？	when is the first letter?
3	B	呃，应该是(...)反正这个提资料是半年前的事情。没过(.)可能过了没多久就写了(.)封信说这个—	er, it should be (...) anyway the documents were mentioned half a year ago. Less than (..) maybe after a short while there is a letter about-(.)
4	Int	right (.) then er- he just er try to make a new application form and er he find a private lawyer, but er he said he have to get all his document from the (.) from the Home Office department which is keep- keep his file (but)	
5	J	mmm hmm	
6	Int	and er they said that he- he- that he have to get the files back	
7	J	mmm hmmm	
8	Int	(unless he was going on then-) they made a- a new new applications (.) er- the- (.) he made (..) he sa- (.) he fill in the forms which is over six months- er yeah over six months now	
9	J	mmm hmm	
10	Int	they receive- (.) after they made a a further form and er he received a	

		letter said they will give back in forty days	
11	J	mmm hmm	
12	Int	er- (.) then (.) him	
13	B	然后又等了起码四个月。	then I waited for at least another four months.
14	Int	his lawyers (.) after that his- er they waiting- he waiting for about four month then-	
15	Int	一月份是吗？	was it January?
16	B	然后今年一月又重新找了司法局。他说因为你前面没结束，这次——他就意思说就是知道很久了，但他现在也没有，就说这儿可能两三个星期我又提交了，那个还是一—	then in January this year, I visited the Justice Bureau again, he said that since your case before hadn't closed, this time—he meant that he knew that it had been a long time, but he didn't have the file at the time. Maybe 2 or 3 weeks I submitted again, it still—
17	Int	the Janua- er: January of this year, and er his lawyers to (.) er: send out another letters to them (.) to ask about these, a- all the- all his files and er- er: he receive a letters from them they said they know is over time cause he, he- he pay another ten pound (.) try to get, his files and they said they know this case and is still processing (.) er so they refund his ten pound they refuse to to take (.) that pou- er money and they said they know is (.) over time they pologise for that: but er (.) they still working on that	
18	J	okay	
19	Int	and er, he said he just about two three weeks ago they just made another letters to them	
20	J	mmm hmm	
21	Int	and er haven't received any response after that	

Meeting fourteen transcript, 06:26 – 08:53

In this data extract, Bai explains in Chinese at line 1 that he wants to reapply, but that 'the documents are lost', thus expressing his main goal and also the main impediment to achieving this. In this sentence Bai draws on two different recontextualizations, one past-oriented and one



future-oriented, of a *collection* or *series* of connected discourses and texts. In expressing his wish to reapply for asylum, Bai is firstly implicitly referring to the future discursive and documentary process of submitting another application for asylum, which he has entextualized into the single word 'reapply'. This is a 'prospected text' (Rock, 2013; Smith, 2006a) because it does not exist yet but may be created some time in the future. In the second recontextualization, Bai refers semi-explicitly (Katajamäki, 2009) to having lost an existing set of "documents": his own records of the key stages and outcomes of his asylum process (copy applications, refusal decision letters, letters from UKVI about reporting, and the like). These documents are a 'prior text' (Rock, 2013; Smith, 2006a), or more accurately a collection of prior texts, which entextualize Bai's asylum process and define his legal position. A lawyer cannot effectively support Bai in making another application without seeing these case history documents, so the fact that they are lost is a significant impediment.

Bai thus refers to recognised textual processes in the asylum context in explaining his situation to Julia, but he uses very general vocabulary (of note for RQ1.1) and relies on the listener to draw on contextual knowledge to infer his meaning (RQ1.2). The interpreter's rendering of Bai's words as regards re-applying for asylum into English is also very general ('he just er try to make a new application form', line 4), but contrastingly her rendering of the documents being lost transforms the message into a much more specific one at lines 4 and 6: that Bai saw a private lawyer and needs to get a copy of his case file from the Home Office. This is a clear intervention by the interpreter, who exercises agency (RQ1.3) in deciding to bring in additional information in her account to Julia.

A third significant recontextualization also occurs in Bai's first speaking turn, in the second sentence of line 1. Bai mentions 'the first letter' and that this said 'it would be processed within 40 days'. Bai is using indirect recontextualization of a discursive event involving a text in order to narrate past events to Julia, and give her the context to his present situation (RQ1.1 and RQ1.2). The event is Bai's receipt of a standard response letter from UKVI responding to the SAR that he submitted for his files, confirming that the processing of the request would normally take up to 40 days. Bai's narration however is not particularly clear from a legal perspective, which may be possibly indicative of his own lack of understanding, or alternatively of his lack of the specialized legal languacultural resources needed to more accurately explain the situation (note that he was helped to make the application). A lot of key information is missing, including particularly the fact that Bai has submitted a SAR. In a factually-oriented chronological narration (expected in legal processes, Eades, 2010) this fact would be expected to be disclosed before the mention of the

response letter from the UKVI. Details about when these events happened are also missing. Another possible explanation for the vagueness of the account could be that Bai's sense of time has been affected by his experiences, as Griffiths (2014) points out is known to have happened with some individuals finding themselves 'stuck' in the asylum process for years. Whatever the reason, Bai displays a lack of the discursive resources (RQ1.1) which could reasonably be expected of clients in initial legal advice meetings – i.e., that they know they need to relate the full facts of their case in some logical way to the lawyer.

The interpreter perhaps recognizes this, since at line 2 she prompts Bai to give some of these details with her question 'when is the first letter?'. In this action of asking Bai for clarification, the interpreter in turn performs two recontextualizations simultaneously: firstly, an intratextual (Linell, 1998) recontextualization of Bai's mentioning of the first letter in the previous turn, and secondly (through the use of the question word 'when') an intertextual recontextualization which refers back to the discursive event of Bai receiving the letter. The interpreter's move again shows her exercising agency (RQ1.3) to shift out of the 'traditional' interpreter role and assume Julia's role of the interviewer – but it is not clear whether she does this because she is familiar with the needs of the legal process, and therefore anticipates questions from Julia (RQ1.2), or just because she wants to have more information in order to interpret more coherently. Whatever her motivation, this move is not visible to Julia - an example of the 'black box problem' in interpreted lawyering described by Ahmad (2007, p. 1036; see Chapter Two, section 2.4). Her prompt also has limited success, since Bai's reply at line 3 is not any more precise than his first statement in relation to timings.

### **Interpreted interaction: bringing in a third person's contextual knowledge**

As is well illustrated by these excerpts, the communicative effect of recontextualizations can be quite significantly impacted by the interpreter's involvement. This is true not only in relation to information being omitted or ambiguously communicated, but also in the opposite sense. The interpreter, in her interpretation into English at lines 4 to 10 of data extract 39, substantially embellishes Bai's words spoken at lines 1 and 3, adding significant communicative content. As already noted, at line 4 she explicitly says that *another lawyer advised Bai* that he needed to obtain a copy of all his documents *from the Home Office department holding his file* (UKVI) – two italicised facts that Bai has not himself mentioned and which provide Julia with significant contextual information. The interpreter also talks about Bai filling in two sets of forms ('fill in the forms' – line 8, and 'they made a further form' – line 10), which the translation reveals that he himself had not mentioned within this interaction.

A little further on in this data extract 39, it becomes evident that the interpreter must be drawing on (and recontextualizing) a previous conversation or conversations she has had with Bai about the problem. At line 15, in her prompt in Chinese for Bai to continue his narrative ‘was it January?’, the interpreter brings in a timing reference that Bai has not so far mentioned in this conversation. Also, at line 17 the interpreter adds a whole section of narrative, recounting in English to Julia that the client had paid a second fee (£10) in an attempt to expedite the process of getting a copy of his case file, but that this had been refunded by UKVI who said they were still working on processing the first request. Given the amount of additional detail that the interpreter recounts, her embellishment of Bai’s narrative in the meeting is highly likely to have come from contextual knowledge that she has gained about his case from prior interactions (RQ1.2). Significantly, these embellishments (probable recontextualizations of prior conversations between Bai and the interpreter) are hidden from Julia (and only emerged for me at the data processing stage when the Chinese talk was transcribed and translated), because of the opacity of the Chinese interactions to Julia – Julia has no reason to disbelieve that this information is coming directly from Bai. The transparency of roles and contributions is affected, with possible implications for interactional control and agency (RQ1.3).

## **Summary**

This is effectively the end of phase 2, the information-gathering stage of the meeting. In the data from this phase that I have analysed here in section 6.3.1, communication takes place between lawyer and client with the involvement of a non-professional interpreter, who appears to have a good level of knowledge about both the client’s circumstances on one hand, and the legal context of UK asylum law on the other hand. The impact of the triadic nature of the interpreted interaction, and of the interpreter’s range of contextual knowledge, is significant for lawyer-client communication in this phase.

In relation to subsidiary RQ1.1, one document, the Client Record Form, is drawn upon briefly at the start of the meeting but no other documents are accessible to the meeting participants. In the absence of key documentation from the institutional asylum process being available, communication between Julia and Bai takes place largely orally in two languages through the interpreter’s mediation. This makes recontextualization processes and the sharing of previously non-shared contexts through recontextualizations more complicated. This also affects the contexts that frame and are relevant to the interaction (subsidiary RQ1.2), as the negotiation of meaning must draw on the contextual knowledge of not only lawyer and client, but interpreter as well. It is not possible for Julia and Bai to check understanding directly with each other; they are

dependent on the interpreter and particularly the extent of her linguistic skills and her degree of contextual knowledge, which will determine whether or not the purpose and function of a recontextualization is recognized and fully interpreted. The analysis shows that in this interpreted interaction, the interpreter variously alters, dilutes, or strengthens the meaning of recontextualizations, or even omits them. Additionally, contextualizing information sometimes in fact originates from the interpreter and not the client without this being visible to the lawyer (this may of course also apply the other way round, for information that the client may believe comes from the lawyer, but in fact comes from the interpreter). As a consequence, and key for subsidiary RQ1.3, the data here show that the interpreter carries significant power, and also significant responsibilities. This illustrates the argument made by Ahmad (2007) that interpreters are much more involved participants in a lawyer-client advice interaction than is sometimes perceived to be the case: 'interpreters do not merely transmit information, but mediate it as well' (Ahmad, 2007, p. 1051). As Wadensjö (1998) observes, interpreters have the active role of coordinators of others' talk.

Over the course of the remainder of the meeting, several topics are discussed in a mixture of advice from Julia, questions from Bai and the interpreter, further information provided by Bai, and exchanges between Bai and the interpreter which are then picked up in questions to Julia. In the following section 6.3.2, interaction featuring the major topics of Bai's case file at UKVI, possible reasons for the delay in obtaining a response to the SAR, and steps that Bai can take to chase this up, are examined.

### **6.3.2 Giving advice about the case file and the subject access request delay**

In this section 6.3.2, sections of data from phase 8 of legal advice activity (advice on next steps) in this interpreted legal advice meeting are analysed. In the interaction, Julia delivers her key advice for Bai about what he should do to address his situation, and *future* texts and discourses are more frequently drawn upon. This contrasts with and complements the analyses of recontextualization of *prior* texts which were presented in sections 6.2 and 6.3.1, enabling me to develop the picture of the intertextual hierarchy surrounding the late-stage asylum legal advice meeting as a whole. Although communication is largely oral because key documents are absent (RQ1.1), talk is once again intertwined with written and other forms of texts: texts from the full extent of the intertextual hierarchy surrounding Bai's case are implicitly and explicitly referenced, used as resources in, and made the subject of talk. The lawyer's specialist languacultural and discursive resources (RQ1.1) are drawn on to explain and offer guidance on legal and institutional documents and processes, and the contexts impacting on these (RQ1.2), to the client. As was the

case in phase 2 of Meeting 14, however, the Chinese-English interpreting in the interaction (which uses a particular style, RQ1.1) impacts on the effectiveness of the contextualization work that takes place within the communication (RQ1.2), and the dynamics of control and agency in the interaction (RQ1.3).

### **Establishing the central importance of the case file for asylum legal advice**

Julia starts the ‘advice-giving’ phase of the meeting by saying that her advice to Bai would have been the same as the lawyer whom he has already seen:

#### *Data extract 40*

	Speaker	Original language
1	J	I I mean it- (.) my advice would have been very much the same (.) in terms of getting subject access request (.) [um which is what the data protection-
2	Int	[but, it’s just waiting for that long
3	J	I know I know (.) but I- tha- that is the only way to- to see: his case
4	Int	mmm hmm
5	J	from the right from the very beginning
6	Int	mmm
7	J	and to see what the Home Office have <u>done</u> (.) and the notes on his <u>file</u> (.) that’s the only way to get that <u>information</u> (.)

Meeting fourteen transcript, 09:56 – 10:20

In this extract, the full bureaucratic term ‘subject access request’ is used for the first and only time in the meeting at line 1 (thereafter, Julia refers to the SAR either with the shortened term ‘subject access’, or as ‘the request’). With the words ‘getting subject access request’, Julia concisely reformulates the client’s and interpreter’s narratives about ‘finding the documents’, ‘filling out forms’, paying over a £10 fee, and sending letters, using a piece of legal languaculture (RQ1.1). “Subject access request” is the full term describing and entextualizing (for Julia at least – it is unclear whether the interpreter or Bai were familiar with the formal term beforehand) the whole administrative process that is provided for in section 7 of the Data Protection Act 1998, enabling individuals to obtain copies of information held about them by organisations (discussed in Appendix A). Since Julia knows that this is a technical term, she then begins to explain what it means, starting with an explicit contextualizing reference to the legislation. Julia is however interrupted by the interpreter at line 2, raising the delay in processing, and Julia acquiesces in the

change of topic, although she comes back to it shortly afterwards (see data extract 43 below). For now, Julia empathises with the delay by saying ‘I know I know’ at line 3, before emphasising that the SAR is the only way to ‘see his case...right from the very beginning’ (lines 3 and 5) – thereby implying that there is no way round the delay. Julia justifies this by also mentioning at line 7 ‘the notes on his file’, which are internal notes made by UKVI about case processing actions and decisions that would not ordinarily be shared with an applicant. These are a potentially valuable source of information and an important motivation for asylum lawyers making SARs on behalf of refused clients, particularly those with long immigration histories. These explicit oral intertextual recontextualizations (‘case’ and ‘file’) of Bai’s case file at UKVI function to bring the case file (a collection of hard and soft copy documents, themselves entextualizations of other processes, together comprising a complete record of Bai’s passage through the UK asylum system from the institutional perspective of UKVI) into a central place in the interaction (subsidiary RQ1.2), and to establish this as a text of great importance for late-stage asylum legal advice-giving.

This is underlined again by Julia a little later in the meeting, as data extract 41 below shows:

*Data extract 41*

	Speaker	Original language
1	J	I mean that’s exactly what I would have suggested to do is to get that file because that
2	Int	yeah
3	J	can often unlock [(.) a lot of other issues
4	Int	[yeah cause without that we can’t do anything
5	J	no, we can’t, and they- you know (.) I- I can’t help but think they know that

Meeting fourteen transcript, 17:40 – 17:52

Julia’s suggestion that obtaining the case file can ‘unlock a lot of other issues’ (line 3) emphasises the place of this text at the centre of her coming to an understanding of Bai’s position. Reformulating Julia’s advice by way of confirmation of understanding, the interpreter comments at line 4 ‘without that we can’t do anything’. Julia agrees at line 5, also hinting at the possibility that ‘they’ (i.e., UKVI) are aware of this fact and that this is perhaps one of the reasons for the delay in responding to the SAR. In relation to subsidiary RQ1.2 and RQ1.3, the short exchange highlights two things. Firstly, it shows how Julia’s agency in the interaction, in terms of her ability to advise her client, is dependent on her access to key subordinate texts in the intertextual hierarchy of the client’s legal matter: she is powerless to help Bai with his asylum case without

access to the case file, and all the contextual information that this would provide. Secondly, it shows how in legal contexts, access to key documentation can be used (deliberately or otherwise) at the macro-level as a means of structural control by institutions.

#### **Drawing on specialist contextual, languacultural and discursive resources in legal advice**

Julia has already advised at more length on her awareness of the increasing problem of delay by UKVI in responding to SARs, her suspicions about the reasons for this, and the implications for clients who (like Bai) have been in the UK a long time, in advice given in data extract 42 below, taken from a few minutes earlier in the meeting:

#### *Data extract 42*

	Speaker	Original language	Translation into English
1	J	wh- what is happening more and more recently is that they are (.) they're not processing these app-these requests quickly	
2	Int	mmm hmmm	
3	J	um and people are having to push, and push, and push to get the information (.) and I- (.) personally I think that's because they know the information is helpful (2)	
4	J	um (.) particularly with someone with a long period of residence, er where there's been issues about (.) um legacy, and and things like that, um th- the information contained in that file (.) will be useful (.) [to him	
5	Int	[might be good for him	
6	J	yeah yeah it [it's <u>likely</u> to be (.) and	
7	Int	[that's why they they just	
8	J	I- I mean I (.) I don't know that for certain	
9	Int	yeah I know	
10	J	but it it's (.) it (.) it would be, I think um (.) worth pushing for that first, because I would need that before I could advise further anyway	
11	Int	mmm, yeah	

12	J	um because (.) that's something that (.) um: (.) we would loo- you know we would either have requested ourselves (.) um or or need (.) to to assess the case as to whether we can do anything to help, because (.) it's the only documents, that will span his whole immigration history	
13	Int	她说是这样的。那个，那面呢，就是政府 (.) 就是移民局那面呢很有可能知道这个文件对你有利，就他手里留的文件对你有利，所以他们在拖时间。她说呢，她说她不是很确定，但是说有这种可能性，很有这种可能性，因为她说尤其是那种在这边呆了很长时间的，又经过你这个，有那个legacy的，就是那个叫，叫(xxx)案的，这个，所以她说很有可能对你有利。她说你可以投诉，就是她 (.) 你收到的那封信下面应该有投诉的。	She said it's like this: the, on the other side, the side of the government (.) the Immigration Office, it is very likely that they know the file is in your favour, the file in their hands is in your favour. So they are stalling. She said, she said she's not very sure, but there is the possibility, there is a huge possibility. Because she said particularly for those who have been here for a long time and had a legacy—it's called—the (xxx) case, this. So she said it's possible that the file is in your favour. She said that you can make a complaint, it's she (.) there should be something about complaint at the end of the letter you have received.

Meeting fourteen transcript, 11:09 – 12:56

The advice delivered at lines 1 and 3 of this extract exemplifies Julia drawing on and recontextualizing knowledge about UKVI's typical work processes in relation to SARs. This is an example of information circulating within the immigration legal advisor discourse community, common knowledge among that community about how particular institutional work processes are functioning (I call these "discursive processes"). In this case, Julia is recontextualizing her knowledge, drawn from prior experiences or telling of experiences by herself, other clients, or colleagues and professional peers, of general delays currently being experienced in getting hold of SAR documentation from UKVI and the efforts needed to get the requests processed. Julia's longstanding and ongoing involvement in asylum advice and casework means she is part of a discourse community (a culture) of advisors where common issues faced by clients and legal advisors, such as these delays in UKVI's processing of SARs, is shared. Knowledge of these discursive processes are discursive resources (in the sense of RQ1.1) that Julia draws on in the legal advice meeting to explain the situation to Bai. As already observed in Chapter Five, and relevant for subsidiary RQ1.2, this 'cultural insider' knowledge is often part of a 'non-shared' context that clients are not privy to; through legal advice they can access this knowledge and



consequently better understand what is happening around them. In this instance, the information shared by Julia is passed on to Bai only in line 13, at the end of an interpreter-lawyer series of speaking turns; consequently, it is not interpreted word for word, but is only implicitly referred to in the interpreter's summary in Chinese of Julia's advice. This style of interpreting - a sort of speaking-for-then-summarising approach in which the interaction is characterized more by successive conversations between lawyer and interpreter, and then interpreter and client - is characteristic of this phase of the meeting, and is significant for the research questions. Hale (2007) describes this style as the 'mediated approach' (p. 41-42); adopted here, the mediated approach means that part of the substance of Julia's message, that Bai is not alone in this situation, is potentially lost.

Another example of Julia drawing on her specialist contextual (discursive) resources appears at line 4, where she brings in the term 'legacy'. By voicing 'legacy' in connection with 'issues', and linking this to the fact that Bai has been resident in the UK for a long time, Julia is performing a buried recontextualization (Katajamäki, 2009) of the whole discourse of controversy around legacy asylum cases, in which apparently arbitrary decision-making on longstanding asylum cases during the 2006-2011 legacy programme attracted strong criticism (see further Appendix A). By making this connection at this point in the dialogue, Julia (in a move relevant to subsidiary RQ1.2) brings the legacy controversy into the interaction as relevant context, linking this implicitly to the delay to the SAR processing and implying that this controversy could be potentially relevant to Bai's case.

'Legacy' in this context is a specialist item of vocabulary (a piece of languaculture), much like the term 'subject access request'. Notably for subsidiary RQ1.1, however, and in contrast to her treatment of the term SAR, Julia does not explain the meaning of 'legacy' at all during the meeting and it is not clear if Julia achieves the communicative goal that she intends. She may assume that the interpreter (and also Bai?) is/are aware of its meaning because of the interpreter's apparent recognition of the word during the interaction towards the start of the meeting (see section 6.3.1). Alternatively, Julia may assume that all clients with Bai's length of residence, who inform her that they have had dealings with previous lawyers, will already be aware of the legacy programme and its implications. This assumption would have been backed up by Bai's mention of making a new application in 2007 after hearing from a friend about some new regulations. The interpreter does seem to recognize the term, but she code-switches into English when interpreting for Bai at line 13, rather than providing any explanation of its meaning to him. Indeed, the code-switch arguably evidences that the term is challenging to translate, indicating its contextual (and linguistic)

specificity (Bullock & Toribio, 2009). It is not finally clear from the data whether Bai does understands the term ‘legacy’; the failure to explain the term more fully could represent a failure of communication in this interaction, or alternatively, the code switch may indicate an assumption of shared understanding around the meaning of ‘legacy’, with the mention of this word bringing the associated meanings and understandings into the interaction in a process of conversational inference (Gumperz, 1982a).

### **Advising on future action and using analogy as an explanatory device**

In addition to making sure their clients understand how the law applies to their situation, lawyers should advise them on their options for practical action (Heslop, 2014), and this is where future texts are most clearly brought in to contextualize legal advice communication. Data extract 43 below shows Julia starting to do this:

#### *Data extract 43*

	<b>Speaker</b>	<b>Original language</b>
1	J	now there's a complaint that he can make to the Information um Commissioner's Office
2	Int	mmm
3	J	it should be on the letter that he got from (.) from them
4	Int	right
5	J	about the delay
6	Int	but is there any (.) after complain has it got any- (.) like er problem for his case or they will (xxxx)
7	J	no it's an entirely different issue
8	Int	okay
9	J	it's not connected with his immigration case at all
10	Int	right
11	J	because it's- um (..) the subject access is what he's asked for (.) um it's a data protection request
12	Int	mmm
13	J	and it's a bit like going to your GP and asking for your medical records
14	Int	yeah
15	J	because your medical records are about <u>you</u> , you're <u>entitled</u> to that information

Meeting fourteen transcript, 10:21 – 11:00

Julia advises at lines 1, 3 and 5 that Bai can complain about the SAR delay to the Information Commissioner's Office (the "ICO", an independent body charged with enforcing the provisions of the data protection legislation, see Appendix A), and that details of how to do this should be on the letter that he received. In so doing, Julia brings a future text (the complaint letter to the ICO), and a new and separate legal procedure (the data protection law enforcement process, see Appendix A), into the interaction. Importantly for subsidiary RQ1.2, It is this separate legal framework which forms the key context for Julia's advice on future action.

The advice to complain to the ICO immediately prompts the interpreter to ask at line 6 (without first consulting Bai) whether making any complaint will harm his asylum case. The interpreter here appears to be advocating for Bai in raising a concern about the independence of the complaints process. It is not clear from the data what exactly prompted the question, but the interpreter acts agentively (relevant for subsidiary RQ1.3), speaking with her own voice but on Bai's behalf as a sort of co-client (Ahmad, 2007). Once again here, the mediated approach to interpreting (RQ1.1) is evident as it takes some time before the interpreter passes on Julia's advice in Chinese to Bai. Julia responds at lines 9 and 11 with advice about the independence of the SAR procedure from the asylum process. Then at lines 13 and 15 she draws an analogy with medical records, bringing in an explicit recontextualization of another generic institutional text commonly requested through the SAR procedure. Again the interconnection between RQ1.1 and RQ1.2 is evident, as Julia here uses the linguistic technique of analogy to bring in another institutional context usually familiar to clients as a communicative tool, in order to support her explanation of how the data protection rules work for asylum case files. The technique seems to work with the interpreter, since in the next extract drawn from a little later in the conversation, the interpreter returns to the subject to demonstrate and verify (lines 1, 3 and 6 in extract 44 below) her understanding about the independence of any complaint before she informs Bai:

*Data extract 44*

	Speaker	Original language	Translation into English
1	Int	so if he made any complaint	
2	J	mmm hmm	
3	Int	er they will (.) respond to him from the different department or	
4	J	it's it's a yeah it's a different body it's an independent body	
5	B	[看一下。看一下就行了。]	[Have a look. Just have a look.]

6	Int	[mmm hmm, so they will push them to	
7	J	yeah, yeah because they are supposed to deal with it within the forty working days	
8	Int	think he got the copy of the letters	
9	J	I mean I can get the details of the- the ICO it's not a problem	
10	Int	[她说就是—	[She said that—
11	J	[but this is becoming more and more common unfortunately, and I can't help (.) but think that it's [a way of stopping people accessing their information	
12	Int	[it's just looks like you're waiting for ever	
13	B	[嗯。	Emm.
14	J	[I know, and (.) the other-	
15		((sound of a cough))	
16	Int	信的最下面吗？	At the end of the letter?
17	B	信，这个就这信。然后40天之后	The letter, this is the letter. Then after 40 days
18	Int	that's the most recent one he got (2)*	
19	B	第一封就是40天会处理，这个是今年一月的。然后这儿也有。	The first letter said they would process within 40 days. This arrived in January this year. And also here.
20	Int	今年一月到现在=	From January this year to now
21	J	=yeah the Information Commissioner's Office is li- like I mentioned (.) that's [how:	
22	Int	[so he's just write the letters to them (2)	
23	J	°um°	
24	Int	她说你给那个，写信投诉。然后投诉是单独一个部门，这个部门会处理，推他们。然后说这个跟移民局完全是不一样的。所以我问她会不会导致(xxx) 她说是完全不一样的。这个是，因为这等于去—我要我自己的文件，你们不给我。	She said that you can write to the—write a complaint letter. You will complain to another department which will process and push them. Then she said that this is completely different from the Immigration Office. So I asked her if that would lead to (xxx) and she said that it's

			completely different. This is, because it equals to—I want my own file, you won't give me.
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\*Observation notes: 'client has letters from Home Office re SAR on his phone. Passes to lawyer who reads'

Meeting fourteen transcript, 13:02 – 14:33

Notably, in the interpretation (which does not come until line 24 of the above extract), the interpreter conveys the essence of the message – that the two departments are completely separate, and the SAR operates like a request for your own file – without bringing in the analogy to the medical records (and hence the additional framing context of the medical advice setting, brought in by Julia to aid the client's understanding). Once again, a recontextualization is altered in the act of interpretation. The interpreter ensures that the core meaning is transferred, but her intervention alters both the linguistic means of communication (RQ1.1) and the context used to frame the message (RQ1.2), taking away some of the lawyer's agency over how communication happens (RQ1.3). All this underlines, for the purposes of subsidiary RQ1.3, the interpreter's mediating control of the interaction in this instance.

#### **The client bringing in documentary information: floors of talk separated by languages**

In data extract 44 above, a rare example of a physical document being drawn on for communication in Meeting 14 (relevant to subsidiary RQ1.1) emerges, and the manner of its introduction into the dialogue is also significant. Because of the speaking-for-then-summarising approach to interpreting largely adopted in this phase, Bai is not given regular turns at talk to speak. When he locates a relevant document on his phone, Bai is forced to interrupt the English talk, and he does so at line 5, urging the interpreter in Chinese to have a look at something. She does so whilst Julia is speaking, and explains this interruption to Julia as soon as her next speaking turn arrives at line 8, saying 'think he got a copy of the letters'. During this interactional sequence, I recorded in my observational notes that what was being referred to here was a soft copy of letters from UKVI (the 'Home Office' in my note) that Bai had located on his phone, and that he passes the phone to Julia for her to read one of these documents as the interpreter explains at line 18 'that's the most recent one he got'.

The letter concerned is the second letter from UKVI about the delay, responding to Bai's attempt to submit a second SAR, and has already been referred to in the meeting (see data extract 39 above). With her comment the interpreter is recontextualizing the previous mentions of this letter and its predecessor, bringing them back into the frame of the discussion in response to Bai's

physical actions and words. This is an intratextual recontextualization (Linell, 1998) in two different ways: firstly, it orally recontextualizes a prior oral stretch of discourse from earlier in the same meeting (Bai talking about the letters, before he had located a copy); and secondly, it is a transmodal (writing to speech) recontextualization of the current text that is now physically present with the interactants as an image on Bai's phone screen. In the same manner as was described in Chapter Five in relation to other documents, this document is drawn on for communication as a subject of talk, as a means of communication through Julia reading its content, and as a tool for multimodal communication (Streeck et al., 2011), for example in supporting the use of deictical language such as the interpreter's use of 'that' at line 18 and the associated physical act of passing the document to Julia. It is a rich communicative resource (RQ1.1).

It is notable in this section of interaction, however, that there seem to be two separate parallel conversations taking place between lines 5 and 22, on two separate 'floors of talk' (Niemants, 2012, p. 184), a Chinese-speaking floor and an English-speaking floor. Both contain a range of recontextualizations, but their audience is limited. For example, at line 16 when the interpreter asks 'at the end of the letter?', she is orally recontextualizing a stretch of advice that she interpreted for Bai a little earlier: 'She said that you can make a complaint, it's she (.) there should be something about complaint at the end of the letter you have received' (see line 13 in data extract 42 above). Only the interpreter and Bai are aware of this, as the talk is on the Chinese floor. Similarly, at line 21 when Julia (in the act of reading the letter) comments 'yeah the Information Commissioner's Office is li- like I mentioned', she recontextualizes both the content of the letter which gives details of the complaints procedure, and her own advice given earlier (line 1 of data extract 43 above). It is likely that only Julia, the interpreter, and myself are aware of this talk on the English floor. As I have already discussed in relation to other data excerpts, in the absence of interpretation non-speakers of the relevant language will be excluded from the communicative effects of these recontextualizations, highlighting once again in relation to subsidiary RQ1.3 the power that the interpreter holds, the corresponding lack of power held by the other interlocutors, and the centrality of the interpreter's role in the lawyer-client interaction.

### **The impact of the mediated approach to interpreting**

Data extract 44 serves as one illustration of the general mode of interpreting, and the role of the interpreter, in this part of the meeting. Neither of these reflect normative standards for community interpreting by trained interpreters (see e.g., Corsellis, 2008) which, given this interpreter is a non-professional, is perhaps not surprising. The interpretation that Bai receives at

line 24 (starting at 14:15) essentially comprises information that the interpreter received from Julia several conversational sequences earlier (at 10:21 – 11:00, see data extract 43 above). In the intervening period, the interaction has featured discussion of the reason for the SAR processing delay between the interpreter and Julia (see data extract 42 above), and interpretation of this, as well as the interjection from Bai bringing the copy letter into the interaction. The mode of interpreting (a kind of periodic summarising) thus has many of the hallmarks of the ‘mediated approach’ (Hale, 2007, p. 41) to interpreting, and contrasts with the strict turn-by-turn two-way consecutive interpretation approach (Hale’s ‘direct approach’, 2007, p. 41) employed by the trained interpreters in the Chapter Five data – a finding relevant to RQ1.1. In terms of role, the interpreter functions (in Ahmad’s terms) at times as more of a ‘guardian’ (Ahmad, 2007, p. 1004) or co-client, speaking for Bai, for example in lines 1 and 3 of extract 44 where she asks the question about the complaint; and at other times as an ‘advocate’ or co-counsel, for example in lines 5 and 7 of extract 42 above where she works out together with Julia what the situation is, and then later periodically summarises the exchanges she has had with Julia into Chinese for Bai. This has implications for how the parties communicate as I explain below.

From the translated data, it seems that the interpreter does quite well at conveying the essence of much of the English-language interaction and advice; also, as previously mentioned, she possesses a good amount of contextual knowledge which supports the communication, an advantage that volunteer or activist community interpreters often display, according to Ahmad (2007). However, inevitably with this approach the dialogic sense of the interaction is not represented and interactional roles are blurred. In relation to RQ1.1, pragmatic features of talk such as acknowledgement tokens, repairs and prosodic elements, which a skilled interpreter can render into the target language but which will have some direct communicative effect even without being rendered if the utterance is interpreted immediately, are lost because of the delay between utterance and interpretation; and communicative content and detail which can be crucially important are lost (Hale, 2007). As noted in relation to RQ1.2, contexts brought into the interaction by one interlocutor using contextualization cues (such as Julia’s reference to medical records) may not be conveyed to the other. Moreover, with regard to RQ1.3, the active role played by the interpreter risks eclipsing both the client and the lawyer in the eyes of each other. This may deprive them both of their own voice in the interaction (Hale, 2007), and also lessen the opportunities for trust-building in the lawyer-client relationship through face to face communication, which as discussed in Chapter Two (section 2.3.2) is an important part of legal advice interaction. Trust between interlocutors becomes a tripartite matter, as lawyer and client have to trust the interpreter as well as each other (Tipton, 2010). Trust-building may depend on

prior relationships or interactions, or other factors such as a client's experience with previous lawyers, but a lack of transparency in the interpreting process is not conducive to establishing such trust between lawyer and client during meetings.

Possibly reflecting this, in my fieldwork notes about Meeting 14, I noted that patterns of eye contact were quite different in this meeting from others I had observed:

Interestingly however, the interpreter sat very close to the client, and there seemed to be a much clearer pattern of eye contact than has been the case in many of my observations to date: the client and the interpreter looked directly at each other when the interpreter was talking, the client looked at her when he was asking questions but when he was generally talking, he would more often stare into space, out of the window or at the table in an unfocused way. (Fieldwork notes, May 2016 – written on the day of Meeting 14)

The fact that Bai looked at the interpreter when asking questions and did not seem to look at Julia at all when talking could indicate that he felt more comfortable with the interpreter than with Julia, or alternatively that he saw the interpreter as his primary informer, in a reflection of the pattern of interpreting. In any case, this gave Julia less opportunity to send Bai visual signals of active listening, that were part of her usual demeanour when interacting with clients (both with and without interpreters present) in other meetings I observed. My observations could be argued to be indicative of a relative lack of trust-building between lawyer and client taking place in this meeting, compared to others.

### **Masking of linguistic resources in interpreted communication**

The lack of transparency that arises where this approach to interpreting is taken is illustrated in data extract 45, drawn from a little later in the meeting:

#### *Data extract 45*

	Speaker	Original language	Translation into English
1	J	was the original request in January	
2	Int	no this is the [second request	
3	J	[or was this the second request	
4	Int	yes this is [second request so [that's why they said they know it	



5	J	[right [do you have the [information from the first one	
6	B	[这封信 (.) 在这封信	[This letter (.) in this letter
7	Int	没有第一个的吗？	You don't have the first one?
8	B	第一个没有。	I don't have the first one.
9	Int	第一个也没有？	Not even the first one?
10	B	就这封信。(xxx)	Just this letter. (xxx)
11	Int	he don't know he try to find it (xxxxxxx)	
12	J	yeah because I mean this, even even so obviously from January [it's now May	
13	B	[第一封信 在四月(xxx)	[The first letter before four months (xxx)
14	Int	yeah	
15	J	and forty working days is roughly three months so it's still beyond that um	

Meeting fourteen transcript, 15:45 – 16:15

During questions to try and establish the timescale of the delay, there is an uninterpreted exchange between Julia and the interpreter at lines 1-4 in which Julia asks if the original SAR was made in January, and establishing that the letter they have seen (dated January) relates to Bai's second SAR. Julia then asks at line 5 if Bai has the information from the first SAR, and this is interpreted, with Bai responding negatively at lines 8 and 10. In spite of the exchange at lines 1-4 not being interpreted, Bai's comment at line 13 that the first letter was 'before four months' indicates that he had understood what Julia was asking – and hence that Bai has a basic level of understanding of English enabling him to follow parts of the English language interaction. The interpreter does not however interpret this information for Julia, which omission masks the extent of his linguistic resources from Julia. The only clue Julia has as to Bai's English ability arises about a minute and a half later, when having located the first letter, Bai speaks in English for the only time in the meeting:

#### *Data extract 46*

	Speaker	Original language
1	B	the- the- the first

2	J	is that the first one yeah? (2) so that's from September that's unacceptable (2) yeah
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Meeting fourteen transcript, 17:52 – 18:01

Here Julia becomes aware for the first time that Bai does speak some English. Knowing this earlier might have impacted how she used her own English linguistic resources (RQ1.1) in the advice meeting. The point was made in Chapter Five (see section 5.3) that the structured, purposeful and topic-driven nature of legal advice communication can lessen individuals' opportunity to speak and mask the extent of their communicative resources; these data show that the presence of an interpreter can also have this effect.

### **The intertextual circle of applying law to facts**

During this short exchange, Bai again hands his phone to Julia so that she can read the letter which is displayed on its image screen, using a document (the letter) together with talk and physical action in another communicative 'text event' (Linell, 2010). Julia's comment 'that's from September' recontextualizes in a transmodal way (from writing to speech) the key piece of information contained in the document before her, bringing this into the advice meeting to support the advice that immediately follows, that an eight-month delay is 'unacceptable'. This advice in itself recontextualizes, in a buried/hidden way (Katajamäki, 2009), section 7 of the Data Protection Act 1998, the legislation containing the 40 day time limit. Julia has already advised about this, although not using explicit references to the legislation (see line 7 of data extract 44, and line 15 of data extract 45 above): data extract 46 shows her applying the law (and her previous generic advice about it) to the fact scenario unveiled during the meeting, and giving concrete advice on the basis of this. Once again, the interweaving of talk and written text, and the 'intertextual circles' (D. Smith, 2006a, p. 85) involved in advising on a subordinate text by evaluating it against the regulatory text governing it, are evident in the data.

### **The production of documents as future action: advice and guidance**

Continuing the process of advising on the practical options available to Bai in relation to the SAR delay, Julia recommends two additional actions, over and above her advice to contact the ICO (see data extract 43 above). These are firstly, writing to the customer service team at UKVI to chase up the request; and secondly, contacting Bai's local MP to ask them to push UKVI to respond (which she has already mentioned briefly). Data extract 47 below shows Julia providing more information about these options:

*Data extract 47*

	Speaker	Original language
1	J	well what it suggests in here was to to write back to them to the customer service team (.) is is to say that you know i- (..) you desperately need the information as quickly as possible (.) um: if you don't get a response from them, then go to the ICO
2	Int	mmm hmmm
3	J	um in the meantime obviously contact the MP (.) give them the- this reference number
4	Int	mmm hmm
5	J	so: sorry th- the re- the the DPU reference number (.) er DPU stands for data protection unit, um and they should be able to (.) write to them and say (.) you know (.) wha- what's happening here
6	Int	yeah
7	J	um now (.) again, um MPs were taking er between (.) a wee- well er three to six days (.) um (1) for a response from, the Home Office (.) and um you know general queries, um I've found one of the other local MPs a [NAME OF CITY] MP their secretary said it's now three to six weeks (1) so there is definitely moves
8	Int	no but is still kind of helpful
9	J	yeah but pushing it from all angles will hopefully mean that they'll issue the file and as soon as he has the file then yes, come back and I'll have a look at it and see what we can do with it

Meeting fourteen transcript, 16:15 – 17:39

In line 1, implicitly recontextualizing the contents of the UKVI response letter through the deictic comment 'in here', Julia advises writing to the customer service team at UKVI as a first step. Julia even suggests what Bai can write in the letter, voicing the possible future text of the complaint letter. Her act, which is reproduced by the interpreter (see data extract 48 below), reflects behaviours observed by Dieckmann and Rojas-Lizana (2016) of lawyers using 'script proposals' (2016, p. 179 drawing on Emmison, Butler and Danby, 2011) to "perform" for their clients future conversations or actions they are being advised to take, voicing future scenarios in order to make them more relatable (see also Maley et al., 1995). The second step is to write to the ICO, as previously suggested. Lines 3 and 5 consist of advice on contacting the MP, and Julia recommends that Bai includes a DPU (data protection unit) reference number that is detailed on the letter from UKVI. Notably, all three courses of action involve the production of documents which will feed into the intertextual chain surrounding Bai's asylum case, reflecting Smith's (2006a) observation that in institutional settings, documents are an integral part of getting things done.

Julia then, in line 7, adds some contextualizing information drawn from discourses circulating within the community of immigration law advisors, about the likely timescales that are involved when someone asks their MP to write to UKVI ('the Home Office') to enquire about a case on their behalf. Julia's intention here is to share her contextual knowledge that this is a slow process and thus prepare her client for a wait, again acting (as discussed in relation to data extract 42 above) as a sort of guide and cultural mediator between the client and the realm of institutional processes that she is active within.

In delivering these small pieces of advice about future actions Bai can take, Julia uses a document present in the meeting as a point of departure (RQ1.1), and draws on her own expert languacultural and discursive knowledge of specialist discursive processes and linguistic terms, to recommend action and share contextual knowledge (subsidiary RQ1.2). This is intended to guide and support her client in acting agentively to address his situation. The advice, together with some of the other comments made in the intervening period (including the advice on the unacceptability of the timescale in data extract 46 above), is interpreted a short while later in an extended turn at talk. This occurs after the exchange between Julia and the interpreter has ended and Julia has stepped out of the room to look up the details of Bai's local MP:

*Data extract 48*

	Speaker	Original language	Translation into English
1	Int	她说是这样的，就从各个方面去推他。然后呢，她刚才讲那个当地的那个议员，然后呢你把这些，你写信给这个当地的议员，把你那个叫什么，那个number，就号码给他，写上去，然后说就是这个事儿是我要我的资料，你应该给我，已经九月份了，这是那种不可以接受的。就是已经，就是快一年了，这是一种不可以接受的，让他去推。她说呢，通常呢，他们从移民局拿到消息呢是在3到6天，然后呢但是呢，她说她知道一个议员前一阵帮别人弄这个是3到6周，我们至少还是有希望的。这个不至于要一直等下去这样等。她说呢一是给那个，二是呢你不是又写了一封信吗，看看他们给你回信怎么回。如果他们回信还是这样的话呢，你就直接就下面就是你跟那个complain的那个，就是投诉的，然后就直接写信到那个	She said this, to push them from many sides. Then, she talked about the local MP, then you put this, you write to the local MP, give him your—what—that number, give him the number by the letter, then you say that this issue is about me wanting my own files, you should give me, it's already September, it's unacceptable. It's already been, almost a year, it's unacceptable, let him push it. She said that, normally, they have information from the Immigration Office in 3 to 6 days, then but, she said she knows about a MP a while ago helped someone for 3 to 6 weeks. At least we have hope. It won't need you to wait forever. She said this is one thing, another thing is that since you have written another letter, see what they will reply. If they still reply

		地方，它呢是独立的一个部门，它呢会去催那边，就是要那边给，必须给一个说法，就是说不管你是丢了还是怎样。	in the same way, you go directly to the complain, the complain, and write directly to them. It's a independent department, and they will put the other side and ask them for a result, whether the files are lost or else.
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Meeting fourteen transcript, 18:27 – 19:36

The excerpt shows the interpreter reversing the order of the recommended actions within the advice: she covers approaching the MP first, before dealing with the two complaint letter routes. Perhaps this is because of the greater level of detail given by Julia about the MP option, and indeed her success in interpreting all of this accurately is mixed. In one aspect however, the interpreter is more accurate than the lawyer: where Julia (line 1, data extract 47) recommended writing to UKVI's customer service team, she has seemingly forgotten that at the start of the meeting (see lines 16 and 19, data extract 39 above) Bai and the interpreter reported to Julia that Bai had recently written to UKVI again to chase a response. The interpreter edits Julia's advice a little here, referencing this fact by saying 'since you have written another letter'. This is at once an explicit recontextualization of the stretch of discourse (lines 16 and 19, data extract 39) which appeared at the beginning of the meeting, and an intertextual transmodal (from writing to speech) recontextualization of the letter that Bai actually sent to UKVI, bringing in the contexts of the actions Bai has already taken, and his reporting of these to Julia, into her rendering of Julia's advice. From this extract it can be seen again, in relation to RQ1.3, that the interpreter exercises her agency and control of the interaction to edit the content of the message that Julia has conveyed. Here, she does this in order to better reflect the actual circumstances, and presumably therefore to render the message more comprehensible to the client, furthering the communicative aims of the advice meeting. The interpreter's addition of the comment 'at least we have hope' in this interpretation is an interesting signal about her positioning: the comment itself, and the choice of the pronoun 'we', indicates a level of affiliation with the client by the interpreter, who is perhaps demonstrating an advocate role with this linguistic choice (Trinch, 2001).

## Summary

I bring to a close here my analysis in this section 6.3.2 of phase 8 of Bai's meeting with Julia, which has covered advice on the delay to the SAR (data extracts 40, 41, 42, 45 and 46) and actions that Bai can take to chase up his request (data extracts 43, 44, 47 and 48). The focus has thus been on advising Bai about producing documents, and engaging in institutional processes, in future action

to regain his case file. In relation to subsidiary RQ1.1 which asks what communicative resources are brought along and drawn on, and what means of communication are used, it is firstly clear that communication has been largely oral, with just one instance of a written document being physically used in the interaction as a communicative tool. Notwithstanding this, the data again reveal the dependence of legal processes on written texts, and the interplay of talk and text that was discussed in Chapter Two (section 2.1.2): the oral talk has focused largely on absent existing and future documents such as the case file and letters to be written to chase this up through various institutional processes. Secondly, in this phase of Meeting 14, as in similar phases of meetings previously discussed, Julia draws on a range of her specialist languacultural and discursive resources (e.g., knowledge of legal terminology, and of discursive processes such as awareness of MP response times) in her explanation and advice, sharing these with the client Bai. The by now familiar connection here with RQ1.2 is evident, since through these resources Julia has access to key relevant contexts for understanding and resolving Bai's situation, and she brings them into the interaction through implicit or explicit recontextualizations in her advice-giving talk. The 'intertextual circle' (D. Smith, 2006a) process that Julia performs, of evaluating the subordinate text of UKVI's letter to Bai by drawing on the regulatory text of the Data Protection Act, is just one example of this drawing on specialist resources.

Thirdly, and of most significance in this meeting for RQ1.1, the oral interaction takes place across English and Chinese through the interpreter, who adopts a mediated approach (Hale, 2007) to interpreting in this phase. This has a range of consequences, including that at times there is disconnection between the parties, with for example two floors of talk being present in different languages, or the extent of individuals' linguistic resources being hidden from others, and there seems to be a lack of development of trust between client and lawyer. Other consequences relate to interactional control and agency in the advice meeting (subsidiary RQ1.3): the interpreting results in some loss of communicative function, with for example explanatory analogies used by the lawyer not being replicated across languages; and interactional roles shift, with the interpreter seen to frequently speak for Bai and be treated as a quasi-client by Julia. The interpreter has more control than either lawyer and client over the content and context of the messages passing between them, and it seems as if the lawyer and the client experience a certain loss of voice and role, much as was warned against by Corsellis (2008, see Chapter Two section 2.4). Paradoxically however, of course, it is only through the interpreter's mediating work that lawyer and client *do* have a voice in relation to each other in this interaction, and the substance of many of the key messages about the future actions that Bai can take are effectively conveyed between them through the interpreter's work.

In other phases of the meeting driven by client questions (asked through the interpreter), the grounds for Bai's asylum claim and the possibility of a claim for leave to remain on the basis of long residence are discussed, although Julia cannot provide any accurate advice without Bai's case file and so she keeps these discussions quite brief and general. These parts of the interaction feature Julia (and to some extent, Bai in his questions) drawing on and recontextualizing immigration and asylum law provisions in a similar way to the advice provision in Meeting 11, described in section 6.2.2. There is also some discussion between Bai and the interpreter, and briefly with Julia, of Bai's contractual position in relation to Julia and other lawyers, drawing on the regulatory framework surrounding the provision of legal advice and the lawyer-client relationship in general; the interpreter's knowledge of this context is evidenced in the data through the guidance and comments that she offers Bai on the subject. These parts of the interaction were not analysed due to my decision to focus in this section on data which exemplified the recontextualization of future texts in advice-giving. It would, however, be instructive to look at these in a future analysis to examine further the ways in which the interpreter acts alternatively as 'co-client' and as 'co-counsel' (Ahmad, 2007) in this meeting.

In the following section 6.4, I bring together the two analyses completed (sections 6.2 and 6.3), discussing the range of types of recontextualization evident within them, the model of intertextuality in this context that emerges, and how this links into the patterns of communication, agency and control evident within each interaction.

## **6.4 Intertextuality in late-stage asylum advice: integrative analysis and framework**

In this section, I firstly in section 6.4.1 identify the patterns of recontextualization emerging from the two analyses presented in sections 6.2 and 6.3 above. I then draw these together into a framework of the intertextual hierarchy that the data analysis reveals is operating in the communicative context of these late-stage asylum legal advice meetings, building on and extending the ideas explored by Smith (2005, 2006a) and Rock (2013) (see Chapter Three, section 3.4). Secondly, in section 6.4.2 I discuss how this framework helps to bring together and integrate the analytic observations made thus far about the study's research questions. I highlight how this intertextual hierarchy can be viewed as the principal macro-contextual frame for the multilingual and intercultural communication taking place in each advice meeting (responding to subsidiary RQ1.2). I also examine how each party's differential degree of access to each of the contexts comprising different parts of the hierarchy (subsidiary RQ1.2, RQ1.3) is related to the textual and

other resources that each party brings to the interaction (subsidiary RQ1.1), and also to the balance of control and agency within the interaction (subsidiary RQ1.3).

#### **6.4.1 Framework(s) of intertextuality in late-stage asylum advice**

As the analysis has shown, a wide range of different types of communicative exchange take place in the two advice meetings featuring in this chapter, within which a variety of different forms of recontextualization are observable. Different forms of recontextualization draw on and transform different modes of communication, reach between and connect different levels of the intertextual hierarchy, and involve each party bringing different relevant contexts into the interaction and sharing them (to a greater or lesser extent) with others. In this section, I use these different forms of recontextualization to map out the intertextual hierarch(y/ies) operating within the particular ‘intertextual space’ (Rock, 2013, p. 98) of the late-stage asylum legal advice meetings analysed in the chapter.

Firstly, I present in Table 6.2 below a kind of classification of the different types of communicative exchange appearing in the data from Meetings 11 and 14 which contain recontextualizations. This classification takes account of the way the recontextualization is used in the meeting, the communicative modes employed, the position of the recontextualized text in the intertextual hierarchy, and the characteristics of the recontextualization (drawing from Rock’s (2013) framework of variables of textual travel in police witness interviews). It builds a picture of the range of contexts surrounding the legal advice meeting, who has access to these, and how they are brought into the interaction in different forms of communication. The full analysis from which this Table 6.2 has been extracted is at Appendix M.



**Table 6.2 - Types of communicative exchange within which recontextualization is evident**

Type of communicative exchange	Position of recontextualized text in intertextual hierarchy	Characteristics of the recontextualization	Examples (DE = data extract)
<b>A. Intertextual - drawing on prior texts</b>			
<b>A1.</b> Using (referring to or drawing on) legislation or case law in information exchange	Regulatory texts	transmodal (writing to talk) intertextual prior text explicit or implicit	Questioning Bai about his asylum claim (DE 38)
<b>A2.</b> Using (referring to or drawing on) legislation or case law in giving advice			s. 55 Borders, Citizenship and Immigration Act 2009 - duty to safeguard the welfare of children (DE 33 s. 7 Data Protection Act 1998 - time limit for response to SAR (DE 45)
<b>A3.</b> Using (referring to or drawing on) other generic regulatory texts			Advice service operational rules (DE 32)
<b>A4.</b> Using a document present in the meeting non-verbally for information exchange	Subordinate texts (always written)	unimodal (reading only) intertextual prior text explicit	The UKVI letters on Bai's phone (DE 44)
<b>A5.</b> Using a document present in the meeting non-verbally as an object/tool in communication	Subordinate texts or other written texts	transmodal (writing to action/gesture) intertextual prior text explicit	Julia's gesture to the refusal decision (DE 35)
<b>A6.</b> Talking about a document (or information in a document) present in the meeting	Subordinate texts	transmodal (writing to talk) intertextual prior text explicit or implicit	The UKVI response letters (DE 46)
<b>A7.</b> Talking about a document (or set of documents) that is/are not present in the meeting	Subordinate texts or other written texts		The letters from Nigeria (DE 34)

<b>A8.</b> Talking about the discursive event of a previous reading of a document (whether or not present in the meeting)	Subordinate texts	transmodal (reading to talk) intertextual prior text explicit or implicit	Opeyemi's daughter's act of reading the FGM evidence (DE 30)
<b>A9.</b> Talking about a previous discursive event or specific series of events (that is not a reading of a document)	Discursive events or processes	unimodal or transmodal intertextual prior text or series of prior texts explicit or implicit	Opeyemi's first asylum interview (DE 35)
<b>A10.</b> Talking about discursive processes (information acquired from repeated past discourses circulating within a community)			Increase in delayed SAR responses to longstanding asylum seekers (DE 42)
<b>B. Intertextual - drawing on future texts</b>			
<b>B1.</b> Talking about a document that does not yet exist (eg in advice or to communicate goals)	Subordinate texts or other written texts	transmodal (writing to talk) intertextual future text explicit or implicit	The complaint letter to the ICO (DE 40)
<b>B2.</b> Talking about a future discursive event or process (eg in advice or to communicate goals)	Discursive events or processes	unimodal or transmodal intertextual future text or series of texts explicit or implicit	Options for complaining about the delay in SAR processing (DE 47)
<b>C. Intratextual - drawing on current texts</b>			
<b>C1.</b> Talking about or referring to a prior stretch of talk in the same meeting	Current discursive event	unimodal (talk only) intratextual current text explicit or implicit	Explanation of what 's 55' means (DE 33)
<b>D. Interpreting related (NB also intratextual) - drawing on current texts</b>			
<b>D1.</b> Interpreting (across languages)	Current discursive event	unimodal (talk to talk) across languages intratextual current text explicit	
<b>D2.</b> Clarificatory exchanges during interpreting (within the same language)		unimodal (talk to talk) same language intratextual current text explicit	

Using Smith's (2006a) view of texts being located (i.e. produced) at a certain point in time as a classificatory tool, the fifteen types of communicative exchange can be broken down into those which draw on prior texts, those which draw on future texts, and those which draw on current texts, and grouped into the categories A to D in Table 6.2. The fourth category, D, comprises intratextual recontextualizations arising from the interpreting in Meeting 14, which merits their separation from the intratextual recontextualizations in category C. These categories, and the distinctions between types within each category, speak to the nature of the intertextual hierarchy operating in these advice meetings (illustrated in Figure 6.3 below), and how it impacts on communication taking place across legal-lay and other linguistic and cultural boundaries.

#### **A. Intertextual – drawing on prior texts**

Most of the interactions in the advice meetings analysed consist of intertextual recontextualizations drawing on prior texts (i.e. texts which were created at some point prior to the meeting), which feature in category A. These recontextualizations took place primarily within phase 2 (information gathering) and phase 5 (advice on the situation). They can be broken down further into four main sub-groups.

##### **A1, A2 and A3 – Use of regulatory texts**

Recontextualizations of 'regulatory texts' (Smith, 2006a, p. 79), comprising legislation about asylum and immigration, data protection, and texts governing the provision of immigration legal advice, are significant in the data. Unsurprisingly, it is almost exclusively Julia, who has specialist knowledge of the regulatory frames concerned, who performs these recontextualizations, evidencing (in relation to RQ1.2) how these non-shared contexts impact on, and are sometimes shared within, the interaction. One function of these recontextualizations is **information gathering**, operating mostly implicitly through the framework of the law underlying Julia's questions (mirroring Rock's (2013) findings in the police interview context). Secondly, Julia also recontextualizes regulatory texts when **advising the client on how the law affects his situation**, either explicitly by citing or referring to the law, or implicitly. Whether to be explicit or implicit is a decision for the lawyer, who must balance the competing communicative aims of making sure the client is sufficiently informed, and ensuring that the advice is comprehensible (by paraphrasing the content of laws). On occasion the choice to explicitly cite the law is made so as to make the power and pre-eminence of the law explicit, as happened in Meeting 11 (see section 6.2.2, paragraph following data extract 36) when Julia advised Opeyemi on the internal relocation argument underlying UKVI's moves to deport his family. Thirdly, regulatory texts relating to the

operation of the advice service are recontextualized (largely implicitly in the data) in **gatekeeping in relation to the advice service's services**.

In Meeting 14, in data not analysed in section 6.3 for reasons of space, there is an interesting “outlier” example of the client, Bai, drawing explicitly on regulatory texts. In a conversation with the interpreter, Bai raises his own incomplete knowledge of the law on acquiring rights to remain in the UK through long residence, and asks her to check with the lawyer what the correct position is. The question is put to Julia, who explains the law to Bai. Bai here evidences his own partial awareness of the legal framework, illustrating that it may be the client who raises a regulatory text in their own **information-gathering** activities.

The remaining texts in category A, types A4 to A10, are lower-order texts situated below regulatory texts in the intertextual hierarchy. Types A4 to A7 represent instances of use of documents, whereas types A8 to A10 represent instances of recontextualization of spoken texts. Lower-order texts will by their nature always have a “chain” of higher-order (and possibly also other lower-order) texts associated with them, defining and shaping how they fit into the institutional framework. They therefore entail an intertextual chain of interlinked recontextualizations, and are heteroglossic, in Bakhtin's (1981) terms. Different parts of the chain are visible to different people, and in the meeting, investigation or explanation of different parts of the chain takes place in context-sharing activity.

#### **A4 and A5 – Non-verbal use of existing documents**

These two types of communicative exchange illustrate non-verbal means of communication within the advice meeting, drawing multimodally on a document that is present in the meeting. Because each involves the use of a document within action visible to other parties (reading, or gesture), they are explicit forms of recontextualization. Type A4 involves **information exchange** through reading a subordinate text. Using documents in this way can speed up and improve the accuracy of information exchange, useful in both monolingual and multilingual communicative encounters. It is in fact critically important in legal contexts where the legal professional is likely to have a more sophisticated understanding than the client of the meanings contained in the document and its implications. As observed in section 6.1, lawyers will find it difficult to advise on an already advanced legal situation such as those featuring in this chapter without reviewing at least some of the key documents.

Type A5 involves the use of a document as an object or tool in non-verbal communication, through gesture. The data show both institutionally-produced subordinate texts (e.g. Opeyemi's refusal

document; Bai's letters from UKVI about the SAR), and printed information (e.g., about the MP whom Bai can contact) being used in this way. The recontextualizations in this type A5 therefore serve the function of **contextualizing and supporting both parties' talk** in both information-exchange, and advice-giving parts of the meeting.

#### **A6 and A7 – Talking about existing documents**

Types A6 and A7 consist of explicit or implicit recontextualizations in talk, of documents which are either physically present in the meeting (A6), or not present (A7). Some data extracts exemplify both types at once through an intertextual chain, for example Julia's advice in data extract 34 on the letters from Nigeria which Opeyemi presented as new evidence in support of his fresh claim application. Julia explicitly recontextualizes the letters (not physically present), but in doing so she also implicitly recontextualizes the refusal decision (which is present) within which these letters are discussed. Of course, and as discussed in section 6.2, also recontextualized within Julia's advice is the discursive process at work within UKVI about self-serving evidence and the interrelated regulatory texts (in the form of case law from the courts) about how UKVI should treat self-serving evidence. This example illustrates well the complexity of the intertextual chains that surround and enter into legal advice.

Recontextualizations in these two types of communicative exchange are performed by both lawyer and client (and interpreter where relevant), involve both subordinate texts and other lower-order documents, and serve a range of functions. Subordinate texts, being institutionally produced and having a real-world impact on the client, are largely the **subject of questions and advice in talk**. **Questions** may come from either lawyer or client. **Advice** may be given **on the form and content (or possible content) of subordinate texts** present or not present. In Meeting 14, the Client Record Form, a subordinate text in the regulatory frame of the advice service, is also used to **contextualize the first turns at talk** as situated within a wider chain of interactions between Bai and the advice service, serving the **relational purposes** of putting the client at ease and helping to establish the client-lawyer relationship.

Client recontextualizations of other written texts (lower-order documents, none of which are physically present in the meetings analysed) generally appeared during the **information-gathering** stage in client narratives of their past experience and events. They were often linked to recontextualizations of discursive events categorized in types A8 and A9. An example is Opeyemi referencing the medical evidence of his wife's FGM during his narrative about the appeal hearing in data extract 35. Lawyer recontextualizations of lower-order documents include not

only referencing documents as part of **giving advice on the client's situation**, but also in **providing information on other sources of help** to the client, and **advising about the wider immigration context**.

#### **A8, A9 and A10 – Talking about discursive events**

In contrast to types A1 to A7, this sub-group of communicative exchange within category A features the recontextualization of non-written texts – that is, the reporting of actions, stretches of oral discourse, or the reporting of knowledge about “discursive processes” (information about an institution’s work processes acquired through repeated past discourses circulating within a certain community, see section 6.3.2, following data extract 42). These are performed by both lawyer and client either explicitly or implicitly. Type A8 is somewhat of a hybrid as it involves the recontextualization of the action or event of reading a document. This is different from recontextualizing the document itself, because it is the *event of reading* that is the focus of the recontextualization. It is in fact a double recontextualization evidencing part of an intertextual chain, since it features both the original text (in the data, usually a subordinate text) and the event of reading this at some point in the past. Type A8 is exemplified in data extract 30 in Opeyemi’s narration of the effect on his daughter’s mental health of her act of reading the medical evidence presented to the court in the appeal hearing. This is an explicit recontextualization, for the purpose of **sharing relevant information with the lawyer (information exchange)**. Other examples also occur during **advice-giving phases** of the meeting.

Type A9 communicative exchanges comprise recontextualizations of previous discursive events or a series of events. Performances of these types of recontextualization by clients are common in the **information-gathering** phase of meetings, during which clients may explicitly narrate significant past events they have personally experienced. These recontextualizations are significant because they can bring new information, not evident from the documents forming the institutional record of the case, to the lawyer’s attention. This underlines the importance of the oral interaction in advice meetings as a way of supplementing, and investigating the adequacy of, the documented account: relevant context can surface which is invisible within the institutionally documented processes. Julia also performs recontextualizations of discursive events drawn from the client’s personal experience or case history, in the course of **advising on the client’s situation** or during further **questioning as part of exploring the client’s options for future action**. In **advising on future options**, Julia also recontextualizes discursive events that are outside the client’s experience, but relevant to it: for example, in Meeting 11 one option that she presents to

Opeyemi is to look into applying for an FGM banning order, and Julia refers to a similar application that another client has made to illustrate that this is a realistic option that others have pursued.

The final type of communicative exchange involving intertextual recontextualization of prior texts is type A10, where discursive processes are recontextualized. Only Julia performs these recontextualizations, which are typified by **advice on the way a certain institutional process is organized, or is running at present**, which Julia is able to offer because she is part of the discourse community (culture) (see Chapter Two, section 2.1.1) of asylum and immigration lawyers who share information about key processes. An example is her advice to Bai about the delays being experienced in the response times for enquiries sent by local MPs to UKVI on behalf of their constituency members (data extract 47). Through these recontextualizations of discourses she is privy to as a cultural insider, Julia is functioning as a kind of cultural guide or mediator, sharing the benefit of her insight to help the client understand their situation better and navigate it more effectively.

#### **B. Intertextual – drawing on future texts**

The second category of the types of communicative exchange taking place in the advice meeting data analysed, category B, consists of intertextual recontextualizations drawing on future texts. The majority of these recontextualizations are performed by Julia and occur during the later phases of **advice-giving, in discussion of possible future actions**. Two types of communicative exchange feature within category B: those in which a document which does not yet exist is discussed (type B1) and those in which a future discursive event or process is discussed (type B2). Type B1 involves explicit advice about documents which could be created and used as part of action to address the situation, such as Julia's advice to Bai to write a complaint letter to the ICO (Meeting 14, data extract 11). Type B2 exchanges occur when future events are being discussed in the advice stage. Occasionally such events are already determined, such as the family return meeting which Opeyemi has been invited to attend with his family, and advice centres on what to do to prepare for the event. Largely, however, these are contingent events in that they may or may not take place, and advice centres on the merits of pursuing, and how to pursue, that course of action – an example is the various options open to Bai for complaining about the delay in processing of his SAR (data extract 47). Some recontextualizations of this type are performed not by the lawyer but by the client (or in Meeting 14 the interpreter), either **in response to advice given by the lawyer** or as **questions about a future course of action suggested by the lawyer**, or in the **expression of the client's goals** (important information for a lawyer to be aware of when advising a client, Heslop, 2014; Sherr, 1986b).

Sometimes, examples will illustrate both type B1 and B2 because the discursive event or process being discussed is one which will result in the production of a document. Thus, Bai's statement that he wants to reapply for asylum is at once an explicit recontextualization of the whole process of making a fresh claim (see Chapter One, section 1.1) and an implicit recontextualization of the documents involved in this. This interrelationship between documents and discursive events is a reminder that every document which enters the institutional intertextual hierarchy is the product of work, often involving oral communication. The discursive processes and events that appear in type B2 exchanges thus often illustrate the 'work' part of the 'text-work-text' institutional processes described by Smith (2005, p. 184).

### C. Intratextual – drawing on current texts

A small proportion of the recontextualizations noted were classified in category C as intratextual (Linell, 1998): that is, the recontextualization of a current text, or a piece of discourse originating earlier on in the same interaction. Intratextual recontextualizations which relate to the interpreting in Meeting 14 are separately categorized in category D. In these data, recontextualized current texts falling within category C were always stretches of talk because no documents were produced during the interactions, meaning that recontextualizations were unimodal. They are equivalent to 'formulations' as the term is generally used in conversation analysis – they present an upshot of previous talk (Heritage & Watson, 1979).

Most of the recontextualizations of this kind in Meeting 11 occurred in Julia's talk and performed a range of functions, from **explaining the meaning of technical or legal terms in lay language** (e.g. Julia's explanation of what 'section 55' means at data extract 33), to **referring back to prior advice when repeating the same advice** later in the interaction (prefaced with a contextualizing comment, e.g., 'as I've said to you before...', data extract 37), **bringing a previously discussed topic back into the interaction** in a change of topic move (signalled by 'you mentioned about your daughter...'), **checking understanding** ('does that all make sense?'), and **expressing empathy** ('I know it's not what you wanted to hear'). In Meeting 14, these recontextualizations were used by all parties, and included a **client intervention to correct a misunderstanding**, the interpreter referencing the previous discussion of the UKVI response letters to **contextualize the action** of the client producing a copy of one of these (data extract 44), the interpreter **coming back to a previous topic** in order to ask a question about it ('after complain...', data extract 43), and Julia **returning to a previous topic** (writing to the MP) when she re-enters the room after an absence and initiates a **topic change** (some examples given do not correspond to a data extract in the thesis, due to space constraints – see Appendix M for the analysis).



These examples of intratextual recontextualizations all illustrate known uses of formulations in the conversation analysis literature (Deppermann, 2011). They are tools for managing the interaction, including signalling topic shifts, managing understanding, and achieving relational goals.

#### **D. Interpreting related (also intratextual) – drawing on current texts**

This category of recontextualizations relates only to interpreted dialogue. Therefore, none of the data from Meeting 11 were classified into this category. Meeting 14, in contrast, contained many examples of intratextual recontextualizations connected to the interpreted nature of the interaction.

These recontextualizations are unimodal (talk to talk) and explicit, and fall into two types. Type D1 exchanges are **recontextualizations across languages in the act of interpreting** – this is the very nature of interpreting, which act essentially reformulates a text spoken in the source language into a different text spoken in the target language but having as closely as possible the same meaning (Wadensjö, 1998, p. 9). In the analysis at section 6.3, I have already noted that in much of the interpretation taking place, the meaning inherent in recontextualizations in the source language is not fully communicated in the target language because of the mediated type of interpretation in use. This highlights the control that the interpreter has over communication and how this can be amplified by the type of interpretation. These recontextualizations are particularly transformative in that they alter meaning. Type D2 exchanges comprise recontextualizations taking place within the same language, but which have the function of **checking understanding or clarifying an utterance** during the process of interpreting. An example is at data extract 38 in which Bai states that he had no visa when he first arrived. The interpreter clarifies with him, repeating ‘no visa?’ in Chinese, and waiting for Bai to confirm before interpreting this.

**Summary:** The classification presented above, of the different types of recontextualization evident within different types of communicative exchange in the data from late-stage asylum legal advice communication, reveals a pattern in which different types of text are drawn on by different speakers to perform different, and sometimes multiple, functions in that communication. This can be further understood by thinking about who each text was created by, for what purpose(s), and how it is drawn on in the asylum legal advice interaction, to position each text within the institutional intertextual hierarchy framing the legal advice meetings. I turn to this below.

#### **An intertextual hierarchy of late-stage asylum advice meetings**

Considering the institutional authorship and function of the various regulatory and subordinate texts identified in the integrative analysis above reveals that a structuring, or layering, exists within the intertextuality of the advice meetings analysed. There appear to be two different macro-level institutional frameworks at play: that of the law on asylum and related laws (e.g., data protection and child welfare) on one hand, and that of the delivery of legal advice services on the other. The intertextual space of late-stage asylum legal advice meetings at the advice service that has been under consideration is in fact positioned at the interstices of two institutional intertextual hierarchies.

Firstly, the advice meeting is situated within the **intertextual hierarchy of the advice service**, governed by the regulatory frames of the laws and rules surrounding the provision of immigration legal advice services in the UK (e.g., Solicitors Regulation Authority, Office of the Immigration Services Commissioner) and of its funding structures. These frames impose constraints on the scope of the service that can be offered, and constraints on how this service is delivered (e.g., the professional obligation to uphold the law held by all solicitors), and are thus important for the research questions because this institutional context (RQ1.2) limits the agency of the lawyer in terms of what she can do for the client (RQ1.3).

Secondly, the meeting is also associated with the **intertextual hierarchies of the law and law enforcement**: primarily the immigration law intertextual hierarchy of UKVI, the Immigration and Asylum Tribunal (IAT) and higher courts, and the laws which they exist to enforce, but also the interrelated intertextual hierarchies of other relevant legislative frameworks, such as the data protection legislation. Julia offers independent advice on the second institutional intertextual hierarchy of the law, and how the client is affected by and can take action within this, but she is at the same time constrained by being positioned inside the first institutional intertextual hierarchy of the advice service and subject to its regulatory frames. The legal intertextual hierarchy (that of the law and law enforcement bodies) sits inside the legal advice intertextual hierarchy, the former representing an integral part of the latter in that legal advice draws from the legal institutional process and aims to (eventually) feed into it.

The shape of the resulting intertextual hierarchy operating in these late-stage asylum legal advice meetings is therefore somewhat different from those described by Smith (2005) and Rock (2013), in that two interrelated intertextual hierarchies are operating in a kind of intertextual network – or a ‘layered simultaneity’ (Blommaert, 2005) of intertextual hierarchies. This is illustrated diagrammatically in Figure 6.3 below.

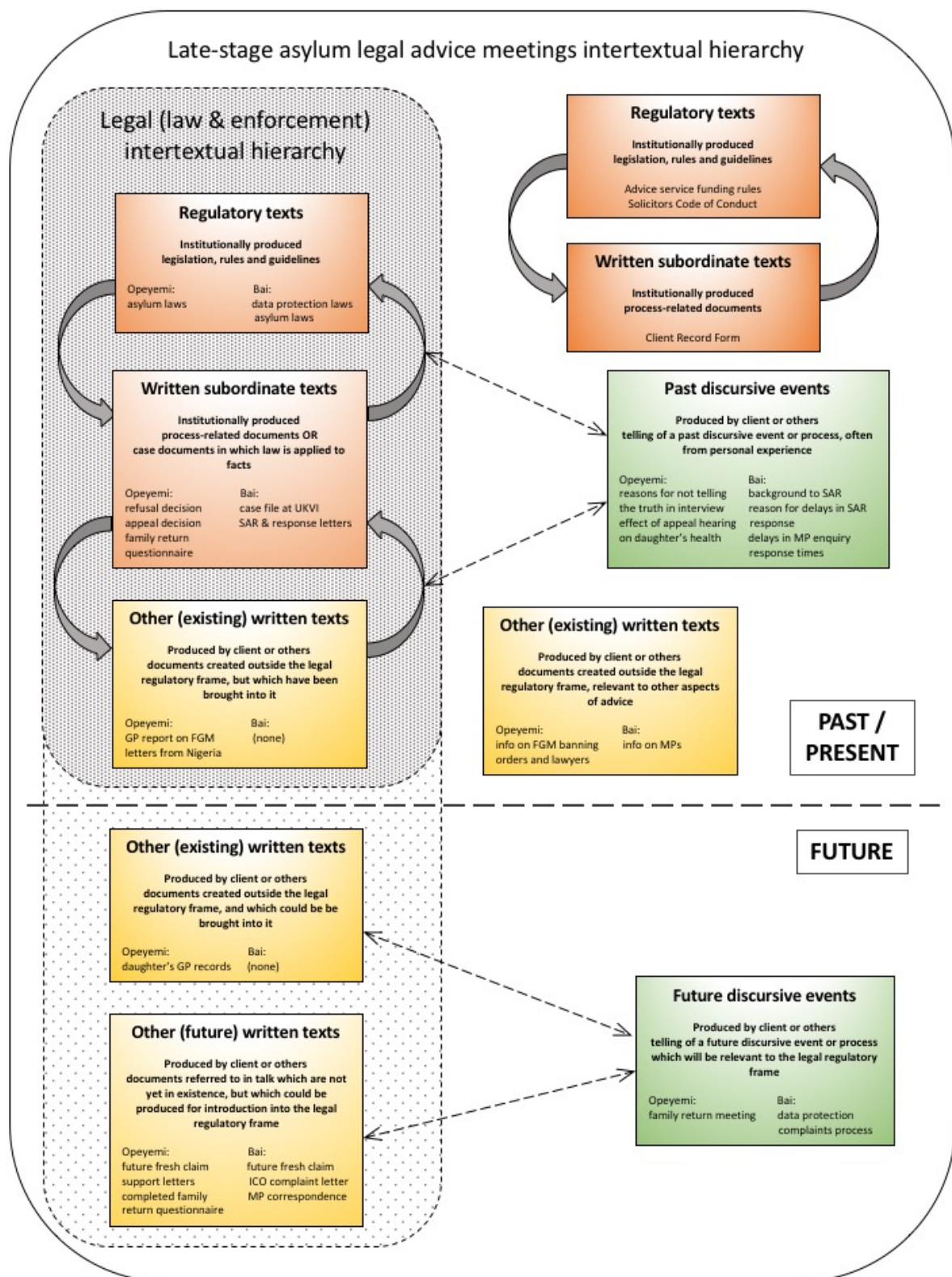


Figure 6.3 – The intertextual hierarchy of late-stage asylum legal advice meetings

In Figure 6.3, a thick dotted line divides the top half of the figure, symbolising the past and present within which prior texts and discourses circulate, from the bottom half representing the future where future texts and discourses circulate. The legal intertextual hierarchy sits to the left, enveloped by a dotted line to indicate its separate existence, despite featuring centrally within the legal advice meeting. The intertextual hierarchy of the asylum legal advice meeting is contained within the outer solid line encircling the figure, thus denoting that the legal intertextual hierarchy is a part of it. Orange coloured boxes represent institutionally-produced regulatory texts and subordinate texts, which exist only as prior texts. Yellow boxes represent lower-order documents (written texts) drawn on in advice meetings; these comprise both existing documents which may in future play a role in the legal intertextual hierarchy, existing documents which play a role in legal advice even though they operate outside of the legal intertextual hierarchy, and documents which may be created in the future for use in the legal intertextual hierarchy. Solid grey arrows represent the 'intertextual circles' (Smith, 2006a, p. 85 discussed in Chapter Three, section 3.4.3) operating in the production and evaluation of subordinate texts and lower-order texts, which Julia considers as she evaluates subordinate texts and advises clients on them. The green boxes represent oral texts: reports of discursive events or processes in the past or the future. As demonstrated in the analysis, these play a significant role in the advice meeting because they add contextual information about the processes of production, or possible uses, of written texts circulating within the hierarchy, providing evidence of the work inherent in producing these documents and their roles. This is symbolised in Figure 6.3 by the dotted double-headed arrows. Often, a complete picture of the client's situation and options for action is only available once Julia has drawn from the documentation (orange and yellow), the client's oral account of significant events (green), and her specialist knowledge of discursive processes (green), and discussed these with the client.

The various types of communicative exchange and recontextualizations described in categories A and B above, with their focus on prior and future texts, are represented within Figure 6.3. Those involving the current text – categories C and D – are concerned with managing the interaction within the advice meeting and are not pictorially represented within Figure 6.3. They will, however, be circulating within the advice meeting, facilitating and enabling lawyer-client-interpreter communication: perhaps the reader can imagine them as circulating in the background of the figure.

Figure 6.3 brings into relief the wide range of texts drawn upon in communication in the late-stage asylum legal advice meetings analysed in this chapter, as well as their relations to each

other, and to each of the parties involved in the legal advice meeting. It demonstrates pictorially how legal advice communication is an intertextual process, with talk and text intertwined (Rock et al., 2013). Using Figure 6.3, the analysis carried out in sections 6.2 and 6.3 can be brought together in an integrated picture of how lawyer, client and interpreter use talk and text to communicate with each other across legal-lay and other linguistic and cultural boundaries in these legal advice meetings.

#### **6.4.2 Responding to the research questions**

The primary research question in this study asks how lawyer, client, and interpreter communicate interculturally and multilingually with one another during legal advice meetings about asylum and refugee family reunion law. The data from two late-stage asylum legal advice meetings analysed in this chapter provide contrasting examples of multilingual and intercultural communication. Meeting 11 exemplifies same-language, dyadic interaction, within which the main communicative divide is between lay and legal language and perspectives on the situation. Meeting 14 exemplifies multilingual, triadic interpreted communication within which not only the lay-legal divide, but also the language divide, are negotiated by the participants. This main research question has been investigated by addressing three linked subsidiary research questions, and findings are summarised below.

The transcontextual analysis carried out in this chapter shows how the interaction in both meetings is contextually framed and constrained by the textually-constructed institutional process of legal decision-making that is represented by the intertextual hierarchy pictured in Figure 6.3. Thus, the macro-institutional structures of the law have a clear impact on communication at the micro-interaction level within legal advice. The analysis has demonstrated similarities between the contexts framing both interactions, but some differences between them in the communicative resources employed and in dynamics of control and agency within the interactions, arising from the interpreted nature of Meeting 14. I first bring together the findings about what contexts frame and are relevant to the communication, and what impact these have (subsidiary RQ1.2). I then turn to findings concerning what communicative resources are brought into and made use of in communication (subsidiary RQ1.1), and how control and agency are exercised through communication and in other ways (subsidiary RQ1.3).

**RQ1.2: What contexts frame and are relevant to the interaction, and how do they impact on communication?**

The transcontextual analysis of the data undertaken in this Chapter Six has clearly highlighted the key contexts which surround interaction in these late-stage asylum advice meetings, defining and framing the communication. A contextual patchwork surrounds these advice interactions, made up of (a) the **regulatory frames created by the regulatory texts of the law** discussed in the chapter; (b) the **institutional intertextual hierarchies** of regulatory texts and subordinate texts surrounding these; (c) the **discursive processes** circulating amongst those who work frequently within this environment about institutional work processes; and (d) the **client's position as embodied in his or her personal history**, including such contexts as conditions in the client's country of origin, but also the trajectory (a "text trajectory", Blommaert, 2005, p. 63) of the client's travel within the asylum decision-making system.

The analysis has demonstrated how the parties to interaction bring these various interlinked contexts into the legal advice meeting explicitly or implicitly through processes of recontextualization, for a range of functions in information-gathering, advice-giving, and relational work. This illustrates Auer's (1992) view of **brought about contexts**, which as Linell (2009, p. 19) notes, are '*dynamic; they become relevant and emerge in and through interaction*'. Since the purpose of the legal advice meeting is to explain the impact of the law and documents implementing the law on the client's position, contexts (a) and (b) (represented by the regulatory and subordinate texts in yellow and orange shading in Figure 6.3) are brought in within explanatory and advisory talk, principally by the lawyer. Contexts (c) and (d) (represented by the oral accounts of personal experience and professional knowledge in green shading in Figure 6.3) emerge more sporadically, but are brought in where relevant by either lawyer or client to supplement available information about the client's situation, providing a more complete shared picture of the legal position. As was the case for the family reunion legal advice meetings in Chapter Five, this exemplifies a process of sharing information about what were previously non-shared contexts, in order to build a sufficient level of shared contextual understanding about the client's situation and the impact of the law, for advice to be given and understood.

The use of various contexts surrounding the interaction as **brought about** resources in meaning-making contrasts with the impact of the **brought along** contexts of institutional rules and processes as constraints on the interaction (Sarangi, 1998). In Meeting 11, for example, explaining the meaning and impact of section 55 (UKVI's duty to safeguard children) was a resource, because it established a shared context between lawyer and client, a shared basis for understanding the client's options for action. On the other hand, the institutional context of the advice service's funding and service provision rules, combined with Opeyemi's institutional status as not credible

(a product of his text trajectory through the system, shaped by the intertextual hierarchy), was a contextual constraint on this client's options, closing off the possibility of the advice service assisting with a judicial review of the refusal decision. In Meeting 14, the lack of availability of Bai's case file was a contextual constraint preventing Julia from giving Bai any advice about his asylum case.

Analysis of the data from the interpreted interaction in Meeting 14 also illustrated the importance of the interpreter's awareness of relevant contexts for effective communication, confirming observations made by Mason (2006) and Hale (2007). Two contrasting examples show the interpreter dealing with contextual information in different ways: in data extract 38, the interpreter explicitly clarifies Julia's implicit question about Bai's visa status on entry to the UK when she interprets it for Bai, drawing on her own contextual knowledge to facilitate the communication. In data extracts 43 and 44, on the other hand, the interpreter does not translate the analogy that Julia draws between a subject access request for Bai's Home Office files, and a request for a copy of his medical records from his GP; instead, she chooses to convey just the key fact inherent in the explanation, that Bai can ask for these files because they are about him. These examples show the interpreter exercising her discretion about the extent to which linguistic meaning is interpreted, and demonstrate that when interaction is interpreted, how successfully contexts can be brought into interaction for communicative purposes depends completely on the interpreter's contextual and linguistic knowledge and skills, and his or her communicative choices: the interpreter is in interactional control in this regard.

**RQ1.1: What linguistic, languacultural, and discursive resources are brought along by each party, and how are they drawn upon in the interaction? What oral (linguistic and paralinguistic), written and other means of communication are used?**

Client, lawyer and interpreter draw on a range of linguistic, languacultural and discursive resources in these legal advice meetings to exchange information in oral and documentary form, and build shared understanding about the client's situation. All the parties draw on both oral and written communication in these advice meetings, as discussed in the analyses in sections 6.2 and 6.3. Drawing on both talk and documents in both same-language and interpreted interactions is central to the lawyer's investigation of how the intertextual hierarchy has operated to define the client's present position, and to identifying future ways of altering the direction of the institutional text trajectory.

In these meetings, the **client** brings along the **linguistic resources** of his own first language, through which he orally shares (with interpreter assistance in Meeting 14) his own experience and trajectory through the system, recontextualizing discursive events and relevant subordinate texts (shaded green and yellow respectively in Figure 6.3) in talk. In Meeting 14, the Chinese-speaking client Bai also appears to bring along some L2 English linguistic resources, but the data show these being drawn on only in a limited way; it is difficult to tell whether Bai made any more extensive use of these resources in following the English talk in the meeting. The client in both meetings also brings along **documentation** comprising different subordinate texts (shaded yellow in Figures 6.3) in each client's case. In the manner observed in the refugee family reunion advice meetings discussed in Chapter Five, these written texts are important methods of communication and are used variously as **subjects of talk, a means of information transfer through reading, and objects supporting communication** where referred to deictically in talk or in gesture. In Meeting 11, where the documents brought by Opeyemi were more central to his asylum case, these documents played a more central position in communication than the documents brought by Bai to Meeting 14.

The **lawyer**, Julia, brings along the **linguistic resources** of English only, and uses these throughout to communicate with her client, with interpreter assistance in Meeting 14. Julia also importantly brings along **linguacultural and discursive resources** from her legal training and experience concerning relevant laws, legal and institutional processes, and specialist legal terms (such as section 55 in section 6.2, or knowledge about delays to SARs made by refused asylum applicants in section 6.3). These resources comprise **knowledge about a range of prior texts in the legal intertextual hierarchy, including significantly the defining regulatory texts**; they are tools for interpreting the texts shown shaded orange and yellow in Figure 6.3. The client does not have access to these resources to the extent that Julia does. In the first part of the legal advice meetings, Julia uses these resources to make sense of the client's oral narrative and brought along documents (other prior texts) to understand the client's legal situation and communicate this to the client. Drawing on these resources, Julia is able to piece together the way in which legal processes have operated within the intertextual hierarchy. She can also interrogate these processes to see if any future action can be taken to address the present situation, and in the second part of meetings, Julia advises on the client's future options, explaining these in terms of future texts. **Translation, or cultural mediation**, comes into the meeting as Julia explains these specialist terms and institutional processes to the client through recontextualizations into lay language; her linguacultural and discursive resources give her access to, and the ability to explain,



key parts of the intertextual hierarchy described in Figure 6.3 and their operation, and are foundational to the building of shared understanding in legal advice communication.

The **interpreter**, finally, brings with her the **linguistic resources of two languages** (English and Chinese in Meeting 14), and mediates and enables oral communication between lawyer and client using these. The ‘mediated approach’ (Hale, 2007, p. 41) to interpreting that is adopted in some phases does however result in only a partial bridging of the linguistic gap; delays in interpreting lead to loss of some information and of the communicative effect of recontextualizations. The interpreter also, significantly, brings some **linguacultural and discursive resources** relevant to the UK asylum legal advice sphere with her, in the shape of contextual knowledge about immigration and asylum processes and relevant languaculture (e.g., the legacy process; visitor visas). These resources sometimes enable her to resolve lawyer-client communication difficulties quickly (as with Julia’s question to Bai about how he entered the UK), although they are not always useful in fully bridging the pretextual gap (Maryns, 2006) between lawyer and client. The interpreter’s resources are partial; as shown by her question about whether making a complaint to the ICO will impact on Bai’s asylum case (see data extract 43), she has access to some parts, but lacks the more complete knowledge of the legal intertextual hierarchy that the lawyer possesses, and which is so fundamental to the legal advice communication.

**RQ1.3: How do individuals exert and resist control, and exercise agency, through their communication? Are power dynamics evident in the interaction in any other ways?**

Differential access to the contexts surrounding communication in these meetings also set the frame for the dynamics of control and agency within these legal advice meetings, and can be understood in terms of the intertextual hierarchy summarised in Figure 6.3. Firstly, the network of institutional intertextual hierarchies of the law and legal advice-giving is the dominant frame for these interactions at the macro-level. It is the meanings created by the law and law enforcement mechanisms that are largely dominant and imposed in these interactions. The lawyer is the only one present with a full understanding of how these intertextual hierarchies operate within the advice meeting. In other words, the lawyer has cultural capital in the field of asylum law and legal advice-giving (Bourdieu, 1972), in the form of the discursive and languacultural resources needed to understand and negotiate these hierarchies, and interpret them for others. The lawyer’s possession (and the other participants’ lack) of the resources needed to engage with the macro-structures of the law, combined with the fact that the meeting space itself is an institutional one that the lawyer controls (Blommaert et al., 2005), results in the lawyer having most power in the advice interaction. The lawyer’s utterances carry most weight,

and the lawyer is in a position to control the interactional contributions of the other participants at the micro-level (Brown & Gilman, 1960).

In these data, Julia uses this control to convey her understanding of the legal situation to the client. However, before doing so Julia must check she has all relevant information, and she is dependent on the client to provide her with both key documentation, and any further relevant information which might be of use in future institutional processes. Case-specific subordinate texts such as decision letters are key, and in some meetings the client brings these with him/her, along with information about the processes which led to their production. In three meetings in the data set of six, however, Julia cannot offer the client any substantive advice because key documentation is not available to her, illustrating this dependence. Because they are case-specific, the client has control of these documentary and oral sources of information (at least nominally – the client is the only person who can request documentation from UKVI if this is lost), and therefore occupies a central place within the legal advice interaction; it is important that the client brings these into the interactional space. Not all contexts are accessible to everyone (Blommaert, 2005), and in a dyadic meeting such as Meeting 11 client and lawyer depend on working together in the advice meeting to share contextual information and achieve the goal of effectively delivering legal advice. As also shown in Chapter Five, through the framework of the CAT of legal advice-giving, the lawyer manages the dynamics of control and agency within the meeting so that both lawyer and client can make necessary contributions.

As the data illustrate, however, where an advice interaction is interpreted as in Meeting 14, the dynamics of interactional control have the potential to shift considerably. In interpreted interactions, the other parties depend very heavily on the interpreter's skill, knowledge, and professional integrity for successful communication. It is the interpreter who dyadically translates and explains both ordinary talk and legal concepts to the client, and who voices the client's explanations, questions and answers to the lawyer. The interpreter is able to alter the sense of recontextualizations, omitting them entirely or altering them in the act of interpretation, sometimes with positive consequences for the communicative aims of the interaction but not necessarily always. Particularly in the later phase of Meeting 14, when the pattern of interpreting shifted towards a 'mediated approach' (Hale, 2007, p. 41) in which a number of conversational turns pass before the content of talk is interpreted, the interpreter featured in this chapter seemed to have more interactional control in terms of controlling what information was and was not conveyed between the parties. The interactional influence of the interpreter was not particularly visible to the other parties, and the agency of both lawyer and client in the interaction

decreased without their necessarily being aware of this. In Meeting 14, this situation was likely exacerbated by no case documents being available: practically all information about the client's situation had to pass through oral channels, using the interpreter's skill and knowledge to facilitate this. In interpreted meetings drawing on documentary sources, the balance of control and agency may be different.

## **6.5 Summary and conclusions**

### **6.5.1 Summary**

In this chapter I have presented a detailed transcontextual analysis of lawyer-client(-interpreter) interaction from key phases of two late-stage asylum legal advice meetings, using the analytical frame of intertextuality to arrive at an understanding of how communication operates within this context. I selected two meetings from a data set of six for close analysis, explaining my choice and rationale in section 6.1 and proceeding to these analyses in sections 6.2 and 6.3. I firstly considered an English-language meeting drawing on a key case document, focusing on the interactional phases of information-gathering and advice on the client's situation in order to look at how *prior texts* were drawn on in communication. Then, I turned to a Chinese-English interpreted meeting involving a non-professional interpreter, where key documentation was not available, focusing on the interactional phases of information-gathering and advising the client on next steps in order to examine the use of *future texts* and the *impact of interpreting* in these key phases. In section 6.4.1 I highlighted the range of different types of recontextualizations evident in these meetings, categorizing these and then building a model of the interlinked intertextual hierarchies operating within these advice meetings. Finally, I discussed in section 6.4.2 how this model contributes to answering the study's primary and subsidiary research questions, by facilitating an understanding of the contexts framing these interactions, the variety of communicative resources used to bring them into the interaction, and the dynamics of accessibility to various contexts, and therefore control and agency, operating in these meetings.

### **6.5.2 Conclusions**

In this chapter I have demonstrated that an awareness of relevant intertextual hierarchies and their operation is key to understanding how the parties communicate with each other within late-stage asylum legal advice meetings. Late-stage asylum cases have a significant case history. Because legal processes generally work by entextualizing the experiences of individuals as 'facts' (through, e.g., interview records or witness statements, see Rock, 2013), and then by

entextualizing each of the legal processes through which law is applied to those ‘facts’ and legal decisions are made (see e.g. Maryns, 2006), case histories are bound up in the written texts of case documentation. Moreover, these case documents contain an authoritative, institutional, view of individuals’ experiences and legal decision-making processes. In legal advice concerning a late-stage asylum applicant’s case, a lawyer must firstly trace and decipher the intertextual chains created during the client’s legal process, in which task case documents are a crucial source of information. The information gathered must then be interpreted in terms of the laws and legal guidelines which apply to the situation, requiring specialist knowledge and resources, and finally explained to the client in accessible language. These processes were captured in the analysis of the two instances of legal advice communication in this chapter.

I have shown how the communicative context of late-stage asylum legal advice is framed by a network of two interlinked institutional intertextual hierarchies, those of asylum law and law enforcement at the core, and of legal advice-giving enveloping this, as illustrated in Figure 6.3. The model brings to light that communication in these meetings is framed and constrained at the macro-level by the meanings and mechanisms imposed by these institutional intertextual hierarchies, illustrating how macro-structures of social organisation can have a constraining impact on individual agency (Giddens, 1984), and at this level how my subsidiary RQs 1.2 and 1.3 are connected. These intertextual hierarchies together constitute a brought along context (Auer, 1992), a framework of laws and institutional application of those laws which constrains the scope and nature of the interaction. The client’s previous case history, and the law that is applicable to it, structurally constrain the client’s situation, whereas the rules and regulations surrounding legal advice giving in the context of the lawyer’s institution constrain the lawyer’s position as adviser. This has an impact on the agency of each party, and on the nature of the communication that takes place.

The model of the intertextual hierarchy operating within these late-stage asylum advice meetings also identifies what different contexts are relevant at the micro-level of communicative interaction, and is helpful to understand how these contexts impact on communication (subsidiary RQ1.2). The range of contexts identified (the regulatory frames created by relevant regulatory texts; the network of subordinate texts surrounding these; discursive processes circulating among immigration law practitioners about institutional work processes; and the client’s personal and institutional history) are brought in dynamically, contextually cued either orally or using documents, by various parties at different times for different purposes, but most often in order to share information about that context with others in the meeting and build a

shared understanding. As was observed in Chapter Five, this sharing of contexts to build shared understanding is a key characteristic of legal advice communication, and demonstrates its intercultural nature.

The model and analysis also, and importantly, highlight that different parties have differential degrees of access, through their different linguistic, languacultural and discursive resources, to different relevant contexts; and that this is key to the dynamics of micro-level control and agency within these legal advice interactions. In other words, the analysis demonstrates how at the micro-level, all three subsidiary RQs 1.1, 1.2 and 1.3 are interrelated (Blommaert, 2005). I have shown how the lawyer has the greatest degree of access to regulatory texts, the subordinate texts produced using them, and the mechanics of the intertextual hierarchies more generally, because she has the languacultural and discursive resources (the cultural capital, Bourdieu, 1972) to understand, interpret and explain them. She is thus accorded most control in the dyadic lawyer-client meeting, generally directing the flow of talk. The lawyer does however rely on the client to share contexts only he has access to (e.g., personal experiences of institutional processes, new information and different perspectives), either orally or through documents. As also observed in Chapter Five, an asymmetrical balance of control and agency (Linell, 2010) facilitates the sharing of all relevant contexts in processes of recontextualization.

Finally, where the legal advice interaction is multilingual and is interpreted, the analysis has shown that the recontextualization work is multiplied, and a shared understanding is not so easily achieved. The success of such work depends heavily on the interpreter's integrity, knowledge and skill, including his or her linguistic, languacultural and discursive resources and the extent to which these match with those of each of the other interlocutors. Because the interpreter is the only party with the linguistic resources (RQ1.1) to be able to access everyone else's talk (and therefore the contexts that others are trying to share, RQ1.2), the interpreter is in some ways the party with greatest control in the interaction (RQ1.3). He or she has responsibilities to carefully manage this control to ensure that each of lawyer and client do fully and successfully communicate their knowledge of different relevant contexts to each other in the legal advice meeting (Mason, 2006). My analysis show that this is more efficiently achieved where the interpreter has good contextual knowledge (languacultural and discursive resources), and can linguistically manage the interaction to transfer information quickly, and underlines the need to ensure that interpreters working in this context have a high level of skills, knowledge and professional integrity.

## Chapter Seven: Conclusions

In this study, I have sought to understand how multilingual and intercultural communication takes place in legal advice meetings between refugees and asylum applicants to the UK, and their lawyers. Addressing this research objective through a linguistic ethnographic case study, my findings respond to the following main and subsidiary research questions:

**Main RQ:** How do refugees and asylum applicants to the UK, lawyers, and interpreters communicate interculturally and multilingually with one another during legal advice meetings about asylum and family reunion law?

**Subsidiary RQs:**

**RQ1.1** What linguistic, languacultural and discursive resources do each of the parties bring to the interaction in these meetings? How are these drawn upon and made use of in the interaction? What oral (linguistic and paralinguistic), written and other means of communication are used?

**RQ1.2** What contexts (social, cultural, political, institutional, spatial or geographical, historical, ideological, interactional role-related, and other) frame, and are relevant to, these meetings? How do they impact on the communication taking place?

**RQ1.3** How do individuals exert and resist control, and exercise agency through their communication in these meetings? Are power dynamics evident in the interaction in any other ways?

In this Chapter Seven I conclude the thesis. In section 7.1 I summarise the key findings and contributions to knowledge that this thesis offers. I then discuss in section 7.2 a range of implications arising from the study in the theoretical, methodological and practice spheres. In section 7.3 I highlight some key limitations of the study and directions for further research, and conclude by underlining the study's major contributions.

### 7.1 Findings and contributions

In this section 7.1 I highlight the study's key findings first, before turning to the contributions to knowledge that are made.

### **7.1.1 Key findings**

#### **Responding to the main research question**

The analysis of communication within the late stage asylum and refugee family reunion advice meetings featured in this thesis has revealed how in the multilingual and intercultural communicative environment of these meetings, legal advice-giving takes place in a structured and purposeful way that is in many respects similar to legal advice processes in other, often monolingual legal advice settings described in the literature (e.g., Gibbons, 2003, drawing on Körner, 1992; Sherr, 1986b; Smith, 1995). Communication in the advice meetings observed follows a predictable yet flexibly used phased discursive structure, the legal advice CAT structure, discussed at length in Chapter Five. A range of communicative resources are purposefully drawn on for different purposes in different phases of the meeting; principal modes of communication are (a) oral interaction in English, and also in other languages through interpreters where lawyer and client have insufficient shared linguistic resources, and (b) using documentation of various kinds. Non-verbal communication is also used but is minimally captured in the data collected, for reasons explained in Chapter Four (section 4.4.3). Extensive linguistic strategies for the negotiation of meaning and for the accommodation of L2 speakers are observed in use in both dyadic and triadic communication. In these meetings, the phased approach to communication is managed and directed by the lawyer, but in certain phases spaces are opened up for the client to contribute, and client interruptions in other phases are given the floor, meaning that clients have considerable possibilities for agency in the interaction. Relational work in communication between lawyer and client aims to enhance this agency by building trust and rapport, reflecting findings by Dieckmann and Rojas-Lizana (2016), Masson (2012), and Trinch (2001). Where meetings are interpreted, relational work, lawyer control and client agency are mediated by the interpreter, with variable outcomes depending on the interpreting style adopted and the contextual knowledge of the interpreter.

The communication within each legal advice meeting is framed by the legal and institutional processes involved, as exemplified by the intertextual hierarchy of asylum legal advice described in Chapter Six. This intertextual hierarchy has the effect of constraining what can be said and done within legal advice communication, since the laws and legal processes at the upper end of the hierarchy define both the client's institutional position and the lawyer's scope for action. In this respect, legal advice communication meets usual criteria for institutional communication, as discussed by Sarangi and Roberts (1999a), Scollon et al. (2012), and Thornborrow (2002), among others. The intertextual hierarchy also comprises the range of contexts that are differentially

brought into the interaction by lawyer and client, with each party drawing on their own knowledge and expertise. This again highlights the asymmetrical but complementary balance of interaction, which is key to the parties achieving their purpose in the legal advice meeting; it enables both lawyer and client to bring information, experiences, or perspectives from contexts not known to the other party into the interaction through recontextualization work. These are shared with the other and used to build a mutually understood picture of the legal issue at hand and possible future action, in processes typical of intercultural communication (Bremer et al., 1996). The involvement of interpreters in this process may have both facilitating and disruptive effects.

In addition to the above findings which reinforce earlier studies, my study makes further contributions by demonstrating how multilingual and intercultural communication in the interactional context of the refugee and asylum legal advice meetings captured in the data is impacted at once by the macro-level of the institutional order (Berger & Luckmann, 1966), the meso-level of the organisation of discourse (Linell, 2010) and the micro-level of the interaction order (Goffman, 1983). Five key findings are discussed in more detail below. Findings one and two advance the explanatory constructs of the CAT of legal advice-giving, and the intertextual hierarchies framing legal advice-giving, which are central for understanding how legal advice communication functions as structured multilingual and intercultural communication. These are significant for findings three, four and five addressing subsidiary research questions one, two and three respectively.

### **Finding One: Multilingual and intercultural legal advice-giving as flexibly structured communication**

*At the meso-level of the discursive structuring of interaction, discourse was organised through the legal advice-giving communicative activity type (CAT) structure described in Chapter Five. This CAT structure shaped the communicative resources used, the contexts framing interaction, and the dynamics of control and agency at each phase of the meeting. The CAT structure functioned flexibly, and as an enabling resource for purpose-driven intercultural and multilingual communication.*

The legal advice-giving interactions captured in the data (across 14 lawyer-client meetings) were analysed drawing on the procedure for communicative activity type (CAT) analysis advanced by Linell (2010). The analysis showed that these legal advice-giving interactions were sequentially organised and structured in a similar way, presented in detail in relation to eight meetings in



Chapter Five. The exact sequential phase structure varied from meeting to meeting, but three core phases of (a) information-gathering; (b) advice on the situation; and (c) advice on the next steps were evident in all meetings analysed, notwithstanding the linguistic and cultural diversity of the data. Additional non-core phases, appearing in some meetings but not others, provided opportunities if necessary for client and lawyer to ask questions, discuss, and express affective stances towards the situation. The phased organization of talk within the CAT structure determined the means of communication used at different phases of the meeting, with different discourse types and communicative resources employed to achieve distinct communicative purposes in each phase. For example, in advice-giving phases, advice on the law and the next steps was delivered through oral monologues from the lawyer; however, in the information-gathering phase, a mixture of documentation, oral question-response-feedback sequences, and client narratives were used to gather information from the client. The organization of discourse through the CAT also enabled the structured exchange of information between lawyer and client, facilitating intercultural communication through the construction of a shared understanding about the client's legal situation. The CAT structure thus functioned as an enabling resource at the meso-level for purpose-driven communication in the advice meeting.

The legal advice-giving CAT structure was used flexibly in the meetings featuring in the data. Flexibility and hybridity was evident through certain phases blending into each other, and through the legal advice CAT being interrupted from time to time by other additional activity types with either professional task-related functions (initiated by the lawyer), or interpersonal relations-related functions (initiated by other parties in the interaction). The additional activity types variously supported the overall purpose of legal advice-giving, by either advancing functional tasks related to the advice, or providing opportunities for relational communication and trust-building between lawyer, client, and other parties involved. Where they were present, interpreters were sometimes involved in this relational work. A mixture of legal/procedural, emotional, and administrative orientations of talk was also evident throughout the legal advice activity in meetings, with the lawyer using relationally-oriented talk to express empathy and affiliation, and build trust and confidence with new and existing clients, helping to bridge linguistic and cultural divides as well as supporting the giving of legal advice. The flexible use of the CAT structure, in which the parties could switch between phases in the negotiation of meaning, and make temporary departures from the legal advice interaction for relational work, thereby functioned as a tool to support multilingual and intercultural communication in legal advice-giving.

The CAT structure of the legal advice meetings observed in the data reflects and confirms the broad discursive structure described in the existing literature on legal advice-giving (Binder et al., 1991; Gibbons, 2003, drawing on Körner, 1992; Sherr, 1986a). The data also show that the legal advice-giving CAT structure exhibits ‘interactional hybridity’ (Sarangi, 2000, p. 2) in these data, supporting conceptions of genre or activity type as a fuzzy or fluid construct (Lefstein & Snell, 2011; Linell, 2010; Sarangi, 2000). This finding contributes to knowledge about legal advice communication in two ways. Firstly, it provides empirical detail from observation of the practice of an experienced lawyer to enrich the training-based models advanced by Sherr (1986) and Binder, Bergman and Price (1991), illustrating how these models have been applied to support successful communication in actual, real life legal practice. Secondly, it illustrates how the legal advice CAT structure is flexibly drawn upon to support successful multilingual and intercultural communication, demonstrating empirically that this widely-advocated structured approach to participatory legal advice can work very well in intercultural and multilingual advice settings, if used with some flexibility.

#### **Finding Two: Legal advice-giving as framed and constrained by institutional intertextual hierarchies**

*The institutional intertextual hierarchies of the law and legal advice-giving at the macro-level of the institutional order framed and constrained communication at the micro-level of the interaction order.*

The two interlinked institutional intertextual hierarchies of asylum and refugee law, and legal advice-giving, framed and constrained legal advice interactions at the macro-level of the social order, defining the nature and scope of the advice offered, and shaping the interactional roles and contributions of the participants at the micro-level of turn-by-turn interaction. The institutional/legal view of events or circumstances, enshrined in regulatory texts containing the law, and subordinate texts within which the law is applied to the institutional view of the facts (Smith, 2006a), defined the client’s situation and framed each advice meeting. At the macro-level, the agency of both lawyer and client (their ability to take action to address the client’s situation) was constrained by this overarching frame.

The transcontextual analysis presented in Chapter Six of data from two late-stage asylum legal advice meetings demonstrated how the texts, intertextual chains, and text-producing processes that make up these macro-level hierarchies were continually drawn into the micro-level dynamics of face to face communication through processes of recontextualization. The lawyer drew on and

explained the regulatory texts of the law and the significance of institutionally-produced subordinate texts, and the client in turn narrated personal experiences of discursive events feeding in to these textual hierarchies. Through these recontextualization processes, information was exchanged and non-shared contexts became shared between lawyer and client, bridging the legal-lay divide to the extent needed to reach a shared understanding between lawyer and client of the client's present legal position and future options. These processes mirror in many respects those described by Halldorsdottir (2006) in her study of a criminal lawyer's advice meeting in a police station with a client suspected of a shoplifting offence, but this study's findings illustrate such processes operating in the very different context of asylum and immigration law.

The framing and constraining effect of the institutional intertextual hierarchies is illustrative of macro-structures of power, or of the symbolic power (Bourdieu, 1972, 1991, see Chapter Two, section 2.5.3) of the institutions of the law, its enforcement bodies, and their regulatory texts, in the field of immigration, and legal advice providers in the field of legal advice services. Viewed with a critical intercultural communication lens, the institutional cultures of the law and of legal advice are seen to dominate and constrain these interactions. The model of the intertextual hierarchy of the legal advice meetings in the data constitutes a detailed case study of how legal institutional processes impact on communication, and is a contribution to knowledge about institutional communication and legal-lay communication.

The legal advice-giving CAT structure and the institutional intertextual hierarchies framing the legal advice interactions are both explanatory constructs emerging from the data. They facilitate understanding of how multilingual and intercultural communication in legal advice interactions operate, and are significant for each of the study's subsidiary research questions, as explained below.

### **Finding Three: Purposeful use of diverse communicative resources in multilingual and intercultural legal advice meetings**

*At the micro-level of the interaction order, a range of linguistic, languacultural and discursive resources were variously and purposefully drawn on for communication, with the complex interplay of talk and text a key feature. Different discourse types and means of communication were typically drawn upon in different phases of the meeting and in different activities, reflecting a link between the purpose and the means of communication in each phase or activity.*

At the micro-level, the interactional analyses in Chapters Five and Six illustrated how meaning was negotiated across linguistic and cultural differences using a range of different communicative

resources and practices. The available resources of each party, the activity (legal advice, professional task, interpersonal talk), and the specific phase of legal advice activity being undertaken, determined what resources were used, illustrating the structuring role of the CAT structure. The two key means of communication analysed were oral interaction (talk), and documentation (written texts). Across the data, talk and written texts were observed to closely interlink and operate interdependently in lawyer-client communication.

Documents played a central role in communication practices, replacing speech, serving as physical objects in communication, and continually being discussed, drawn on and referred to explicitly and implicitly in processes of recontextualization as examined in Chapter Six but also illustrated in Chapter Five. Resources for communication in writing which were physically drawn on included hard and soft copy documents, and technologies of communication such as pen and paper, laptop computers, and smart phones; these were particularly used in information-gathering phases of legal advice activity and in the text-based professional task activities of form completion and preparing witness statements.

Orally, what language was used for interaction in each meeting was determined by the available linguistic resources of lawyer and client, the complexity of the communicative task, and the constraints of the advice service's limited resources for interpreting. English was the only language spoken by the lawyer, and therefore whether an interpreter was used or not depended on the client's level of English resources and the complexity of advice sought. In one case, the client spoke Nigerian English and communication took place across different varieties of English. In other cases, communication took place through the use of clients' L2 English wherever possible for less complex advice in order to minimise the impact on the advice service's resources, with L1 speakers (e.g., the lawyer, any support workers present) exercising linguistic accommodation and communicative leniency in their use of linguistic and languacultural resources to facilitate communication.

Interpreters were involved where the client had no English resources, and also where the advice given was more complex, or in the task of preparing a witness statement (which would directly feed in to the institutional intertextual hierarchy) – in other words, where it was strategically necessary. In the interactions in Chapter Five featuring professional interpreters, a 'direct' (Hale, 2007, p. 42) style of short-turn consecutive interpreting, with discourse incorporating short turns at talk and regular pauses for interpretation, was generally employed. This was more effective in certain phases featuring discourse types such as questions to the client (information-gathering), and explanations of the law (advice-giving). Longer, more complex utterances emerging in certain

other discourse types and activities (e.g., responses to client questions, and narrative-based relational talk in some additional activity types) were more problematic to interpret. In one interaction, Meeting 14 in Chapter Six, a non-professional interpreter was involved in an initial advice meeting with a client, and use of the 'mediated approach' (p. 42) to interpreting in the later advice-giving part of the meeting, with a delay between the principal's talk and the interpretation given, resulted in a blurring of interactional roles and some loss of (particularly contextually signalled) information. Notably, the non-professional interpreter in Meeting 14 seemed to be quite familiar with the context of UK asylum and refugee law and with the client's case details, and was observed drawing on her own contextual knowledge to clarify and facilitate communication across languages in a way that the professional interpreters did not. This may have impacted on the findings, and reflects that the label 'professional' here simply means 'trained and qualified' and does not necessarily reflect contextual knowledge or experience (see Chapter Four, section 4.5.3).

In both English-language and interpreted interactions, where non-shared languacultural or discursive resources or practices (i.e., non-shared vocabulary or contexts that were aspects of the different cultures salient in the interaction, including specialist legal terminology or processes) were relevant, they were explicitly explained in a process of recontextualization. Linguistic strategies for negotiating understanding were also used by all parties in all interactions (Bremer et al., 1996); these included repetition of key phrases in feedback, minimal acknowledgement tokens, formulations and comprehension checking, asking explicit follow-up questions, speakers rephrasing their own utterances to aid the other's comprehension, repair of misunderstanding and clarifying gaps in understanding.

The data also demonstrated how relational work was important in building trust in interactions. Empathy, expressions of understanding and affiliative work by the lawyer through linguistic and paralinguistic signals, non-verbal communication, and drawing on shared knowledge and identities, featured in all interactions. The lawyer's use of humour, and analogies with life experiences of the client, also contributed to relational work. These were particularly evident in the advice-giving and decision phases of meetings, in which the client's situation was the topic of talk. Interpersonal-relations related additional activity types involving personal narratives also served to build trust and positive feeling amongst meeting participants. I have explored these data elsewhere using Spencer-Oatey's (2008a) theoretical framework of rapport management in intercultural interaction (see Reynolds, 2017).

Many of the study's findings concerning the range of communicative resources used in refugee and asylum legal advice meetings confirm the existing literature on legal advice communication discussed in Chapter Two. Particularly, the findings reflect the complex interdependency of talk and text in the legal process (Komter, 2006b; Rock et al., 2013); the use of linguistic strategies for relational and affiliative work (Dieckmann & Rojas-Lizana, 2016; Trinch, 2001) and the use of different discourse types in different phases of legal advice (Binder et al., 1991; Sherr, 1986a). This study's contribution lies, firstly, in illustrating how such resources can serve as the basis for successful multilingual and intercultural communication in legal advice-giving; and secondly, in offering rare empirical data on, and consequent insights into, the dynamics of interpreted legal advice interactions, which Hale notes is 'sorely needed' (Hale, 2007, p. 81). The findings provide evidence from a new context in support of previous interpreting research: for example, they underline the position of the dialogue interpreter as an active participant in interaction (Wadensjö, 1998); they highlight the increase in efficiency resulting from interpreter knowledge of the communicative contexts of both participants (Hale, 2007; Mason, 2006); they confirm the importance of participants styling their utterances in a way that facilitates interpreting (Corsellis, 2008); and they lend empirically-based credence to Ahmad's (2007) theoretical argument that interpreters should be granted a more visible and legitimated role within the lawyer-client advice interaction as linguistic and cultural 'experts' (p. 1004).

**Finding Four: Different impact of shared contexts and non-shared contexts on communication in multilingual and intercultural legal advice meetings**

*A range of contexts framed, and became relevant in, the communication observed. Those identified could be grouped into shared contexts and non-shared contexts, with each group being drawn on for different purposes within interaction: shared contexts were drawn on for relational work, whereas non-shared contexts were the basis of information exchange and advice-giving.*

As discussed in relation to finding two above, the major context framing the legal advice interactions and that was brought into the legal advice communication was the intertextual hierarchies of the institutions of the law, law enforcement, and legal advice-giving. The data illustrate that not only immigration law, but also other areas of law such as data protection and child welfare, were relevant in some cases. The contexts drawn upon in interaction included these regulatory frames of the law and law enforcement, and also other contexts closely linked to the purpose of the interaction, that of giving and receiving refugee family reunion or asylum legal advice (note that other contexts may surround these interactions, but due to the methods of analysis, if they were not observably drawn upon in communication they have not been discussed

in this study). The data exhibited a distinction between **shared contexts** (contexts which all parties to the interaction were aware of), which were drawn on in relational work and for setting the frame for advice and narratives; and **non-shared contexts** (contexts which some of the parties to the interaction were not aware of), which were generally the subject of information exchange, explanation, and advice.

Examples of shared contexts observed in the data as relevant in interactions were family reunion procedures (with repeat clients); parental experiences; financial circumstances for refugees; cultural or societal conditions in client home countries; and aspects of asylum processes such as the legacy process (a shared context as between lawyer and interpreter in Meeting 14). Particularly in the family reunion advice meetings featured in Chapter Five, shared contexts often formed the basis for empathic work and relational work to build trust, with emphasis placed on shared experiences like being a parent or shared opinions such as the poor quality of UKVI's decisions. They were also drawn on for demonstrating understanding in advice-giving, with the lawyer talking about her knowledge of social conditions in the client's country of origin, for example, as an empathising strategy helping to form relational bonds across cultures.

Examples of non-shared contexts appearing in the data were knowledge of law and procedure, in relation to both its past impact and its future impact on the client; knowledge of the political environment in the UK, for example how the change of government in 2010 brought the legacy process to an end; and personal circumstances known to the client, such as Opeyemi's daughter's mental health (discussed in Chapter Six), or Mebratu's previous application for his wife's visa (discussed in Chapter Five). For an advice interaction to succeed, knowledge about non-shared contexts must be exchanged between lawyer and client, at least to the extent necessary to build a shared ground for understanding and mutually agreed future action. This sharing was done through recontextualization work, drawing on and explaining information which was not shared; thus, the non-shared contexts became a resource in communication.

Some clients who had previously received legal advice exhibited awareness of information or procedures which would normally be considered non-shared context for a first-time client. Examples from Chapter Five were Aamina's awareness of the need for documentary evidence of her trip to see her husband, and Jamal bringing along the correct translated identity documents for his family members to the meeting. This demonstrates a key outcome of legal advice, which is that previously non-shared contexts of law and legal procedure become shared. They illustrate the partial acquisition by the client of discursive resources in the relevant area of law.

The findings show how the range of framing contexts in the two different categories of shared, and non-shared, contexts impacted on communication in different ways, reflecting Labov and Fanshel's (1977) well-known distinction between A-events (known to A), B-events (known to B) and A/B-events (known to both) and their differential treatment in talk. In connection with this, this study's contribution is in demonstrating how the legal advice meeting is inherently a site of dialogic intercultural communication, being a communicative encounter in which individuals from different contextual backgrounds come together, interact, and exchange information to negotiate a shared understanding on the subject of the client's legal position. The outcome of such an interaction is that the pretextual gap (Maryns, 2006), or cultural difference, between lawyer and client is narrowed. Further, the study shows how the legal advice CAT structure is a tool for intercultural communication within the meeting, as it facilitates and structures the sharing of previously non-shared contexts, the negotiation of understanding between meeting participants, and the achievement of their communicative purpose. The lawyer giving legal advice thus functions as a kind of professional mediator, drawing on her legal discursive, languacultural and linguistic resources (Risager, 2006) to translate, or act as the client's guide to, the intertextual hierarchy of the law and how it applies to the client's situation. The study provides empirical evidence to back up the assertion, made by other authors, that lawyers are a kind of translator (Carlson, 2013; Conley & O'Barr, 1990; Cunningham, 1992).

**Finding Five: Asymmetrical but complementary balance of control and agency in multilingual and intercultural legal advice communication**

*An asymmetrical but complementary balance of control and agency existed between lawyer and client in the interactions analysed, generated by unequal knowledge about the institutional intertextual hierarchy framing the interaction. The legal advice CAT structure was instrumental in regulating this balance, but the involvement of interpreters had the potential to disrupt it.*

The analysis shows that, at the meso-level of the discursive structure of the legal advice interaction, the lawyer was in control of the communication. She was both the host of the meeting, in physical control of the meeting space, and also in charge of directing shifts from one phase of interaction to another within the legal advice CAT structure. The lawyer's control through these mechanisms is illustrative of the macro-level symbolic capital (Bourdieu, 1972) that she holds within the field of immigration legal advice: she is positioned as the expert because of her understanding of the network of interlinked institutional intertextual hierarchies framing and constraining the legal advice interaction.



The lawyer cannot, however, provide expert advice without sufficient knowledge of the client's situation, including the client's affective stance towards the issue and their own goals in relation to it. A successful advice interaction requires contributions from the client. The study reveals how at the micro-level, the legal advice CAT structure provided for structured shifts in control and agency to achieve this. Shifts of phase allowed the lawyer to claim control of the speaking floor during certain phases (such as advice-giving, within which a lawyer monologue was the normal discourse type), and to open the floor to client contributions in other phases (such as the decision-making phase, when the client was positioned as active decision maker and was ceded interactional space to express thoughts, feelings and questions). Thus, the phased arrangement of talk within the legal advice CAT structure regulated the dynamics of control and agency as between the participants in the data, such that both lawyer and client contributed to the interaction in ways which ensured that the meeting's purpose (giving and receiving legal advice on the client's situation) was achieved. This was facilitated by participants having a genuine shared goal. The establishment of trust between lawyer and client through relational work also facilitated this dynamic, with the data exhibiting instances such as the meeting with Ismail in Chapter Five, in which warm interpersonal relations between lawyer and an established client arguably enabled client agency.

Where same-language interaction was not possible and interpreters were involved as a communicative resource, the dynamics of interaction evident in the data were, however, transformed. The parties depended heavily on the interpreter's linguistic and contextual expertise, and faithful performance of the mediator role, for successful communication. Although hidden, the interpreters featuring in the data had a degree of interactional control, in that they determined how much of one party's speech was interpreted to the other party. This was more evident in the data where a mediated approach to interpreting (Hale, 2007) was adopted than where a direct approach was used. However, it is too simplistic to say that the interpreter was always in overall control; for example, instances featured in the data where interpreting became problematic because the main speaker switched discourse style into long, complex utterances without breaks for interpreting – something outside of the interpreter's control.

The study's main contributions here are firstly, to enhance understanding, based on empirical data, of the dynamics of control and agency in interpreted legal advice interactions, highlighting the central role of the interpreter; and secondly, to illustrate the role of relational work and trust building in increasing client agency within interactions with both new clients and established clients. The main analysis of the discursive structuring of control and agency through the legal

advice-giving CAT confirms that Linell's (2010) assertion that most institutional communication is asymmetrical, but complementary - and that CAT structures help to achieve this asymmetrical balance of control and agency - does apply to legal advice communication in this interactional context. In a linked contribution, the data and analysis also provide a detailed case study of one lawyer using a participatory, or client-centred, style of legal advice communication (Binder et al., 1991; Dieckmann & Rojas-Lizana, 2016), demonstrating how this can be achieved through a mixture of discursive structuring and linguistic strategies in both same-language and multilingual interactions.

### 7.1.2 Contributions to knowledge

This study responds to calls by Piller (2011) and Martin & Nakayama (2013) for critical studies of intercultural communication in contexts of inequality and the threatening of human rights, and by Hafner (2012) for studies that place emphasis on cultural awareness and communication issues for minority groups in legal settings. In contrast to many studies of multilingual and/or intercultural communication in institutional gatekeeping settings, where communicative goals may not always be aligned, this study focuses on the rarely-researched co-operative communicative context of legal advice-giving to asylum seekers and refugees, a context within which all participants share the same interactional goal. It makes five key contributions to knowledge, in the areas of legal-lay communication; socio-legal scholarship; activity type (genre); and legal interpreting.

First, the study provides **new insights into the range of different linguistic, languacultural and discursive strategies** which can be employed **for successful multilingual and intercultural communication in the legal advice context**. It highlights the need for awareness of, and planning for, communication issues, as well as knowledge of strategies to address such issues, amongst individuals and institutions working in this context. It also foregrounds the **heightened importance of flexibility and of relational work** in creating communicative spaces for client expression, where legal advice interaction is multilingual or intercultural. Whilst all parties can contribute to negotiating differences to achieve understanding, in the asymmetrical communicative environment of the legal advice meeting, it is the primary responsibility of the lawyer as the power-holder to ensure that understanding is achieved (Bremer et al., 1996; Linell, 2010). Through the application of communicative activity type analysis and close linguistic analysis to the data, this study highlights the linguistic and discursive strategies, outlined above (see section 7.1.1, Finding Four), which lawyers can draw upon to facilitate communication.

Second, the study supports previous research findings on the interdependency of talk and text in legal communication (Heffer et al., 2013; Komter, 2006b), placing this analysis in an unexplored context of late-stage asylum and refugee legal advice. This new context foregrounds **the ossifying, and sometimes unjust and draconian, effects of bureaucratic procedures and entextualization in legal processes** (Maryns, 2006; Sarangi & Slembrouck, 1996), which effects were examined through the transcontextual analysis carried out in Chapter Six. The study highlights **the role of the lawyer as translator of, and guide to, this process for the client**.

Third, the study contributes substantively and methodologically to socio-legal scholarship by **bringing together linguistic ethnography and institutional ethnography** in a productive manner, **to shine a light on the connections between macro-institutional structures and the use of communicative resources at the micro- and meso-levels**. It provides new insights, using a transcontextual analysis approach, into how the input of individuals through the ‘work-text-work’ sequences described by Smith (2005, p. 184) produce and shape institutional outputs within institutional intertextual hierarchies, and how expert advice is often needed to understand and (sometimes) manipulate the complex and controlling institutional intertextual chains which result from such processes.

Fourth, the study contributes to the activity type (genre) literature by exemplifying **an activity type structure (the legal advice-giving CAT structure) which facilitates - is even designed for - intercultural communication in institutional settings**. The study thus provides a different lens through which to view the possibilities for the flexibility and fluidity of genre within goal-driven institutional communication, introducing the idea that some forms of institutional communication are in fact structured or designed to be at least somewhat flexible.

Fifth, the study makes a significant contribution to the interpreting literature by providing **empirical data featuring a range of different interpreted lawyer-client interactions**, analysis of the benefits and challenges of interpreting, and analysis of the effects of interpreting on multilingual lawyer-client communication. The study **addresses the knowledge gap about interpreting in lawyer-client communication** identified by Hale (2007), providing empirical data illustrating the effect on communication of interpreters occupying the different interactional positions of co-client; co-counsel; and linguistic and cultural expert described by Ahmad (2007), grounds from which to develop further Ahmad’s discussion of the role of the interpreter in legal advice interactions.

## 7.2 Implications

The following implications for theory, methodology, researching multilingually, and professional practice arise from this study.

### 7.2.1 Theoretical implications

The study has three major theoretical implications concerning the nature of culture and intercultural communication; theorizations of context and communication; and conceptions of power in institutional communication.

The first implication concerns the nature of culture and intercultural communication, and is that through intercultural communication, cultural resources may flow across groups and become partially shared. In this study, I have viewed interculturality and multilingualism through the widest of lenses, bringing into focus the shifting, dynamic and multiple nature of cultures of different kinds, and the role of language in cultural flows. The legal advice meeting appears as a site of cultural and linguistic flow (Risager, 2006), within which the primary activity is the transfer of linguistic, languacultural and discursive resources about the law which help the client to make sense of, and navigate, this institutional culture. Other flows are of course also in operation, increasing the lawyer's knowledge about the cultural and social backgrounds of different client groups, and increasing the interpreter's knowledge of all these matters. What this illustrates is that with a certain level of intercultural contact, a person who is outside of a cultural group (i.e. not affiliating with it as a matter of social identity) can still have some (more or less partial) knowledge of the cultural practices circulating within a culture, and hence be able to interact with members of that social group with some level of shared resources. A sort of interculture develops, described by Trinch in the legal advice setting as an 'intergenre' (Trinch, 2005, p. 19). Linguistic, languacultural, and discursive resources should not therefore be seen as mutually exclusive to cultures – they flow across groups, and here, institutional structures, and are acquired by individuals as secondary resources at different levels of fluency and knowledge. The data thus illustrate what Risager describes as a 'divergent language-culture nexus' (Risager, 2006, p. 187, see Chapter Two, section 2.5.1).

A second implication is that this study throws doubt on the applicability of complexity theory-inspired conceptualisations of context in the institutional communicative setting examined. Whilst a range of contexts at the macro- and micro-levels and from a variety of spaces and times were relevant to the legal advice interactions, demonstrating a degree of fit with the ecological models of context discussed in Chapter Three (Blommaert, 2005; Kramsch & Whiteside, 2008;

Whiteside, 2013, see section 2.5.2), nevertheless all contexts brought into the interaction had a logical relation to the purpose of the interaction. The element of unpredictability, or chaos, is missing from the ecology of interactional contexts surrounding the data in this study, compared with the diversity of contexts that were revealed within the shopping transactions in multilingual and multicultural districts of San Francisco analysed in Kramsch and Whiteside's (2008) study, for example. The institutional frame, and purpose-driven nature, of the interactions in this study distinguish them from the interactions analysed by Kramsch and Whiteside, and may go some way towards explaining this difference. In sum, I would argue that this study throws some doubt on the applicability of complexity theory to conceptualisations of context as it relates to communication, at least in the study of institutional interaction. The dilemma (Canagarajah, 2017) of how interactional context should be defined and conceptualised remains.

Thirdly, and in relation to theoretical conceptions of power within institutional communication, the analysis illustrates a Bourdieusian (weak, dark, macro) view of social constructionism (Bourdieu, 1972; Irwin, 2011) in which individual agency within a social field is restricted or enabled by the forms, and amount, of capital an individual possesses. Asylum and refugee clients, who possess forms of capital that do not match the dominant forms in the field of immigration law and its enforcement, are restricted in their agency compared to immigration lawyers, who possess the relevant forms of capital. In the legal advice meeting, the resources of both lawyer and client are pooled in the service of advancing the client's legal matter. The lawyer puts his or her cultural capital (legal knowledge and expertise) to work in support of the client, helping the client to understand his or her own position, identifying options for action, and thus lending (or giving) the client more agency within the field. This agency in the social field can be distinguished from agency at the micro-level of interaction, in relation to which the study reveals how even though dynamics of control and agency are pre-imposed at the macro-level, at the micro-level it was not only possible, but necessary to the purpose of the meeting, to make room for client agency and expression. This was achieved through the CAT structure providing spaces for client contributions, and through relational work to support client agency and wellbeing. The distinction mirrors the split in the literature between macro-level social power (in which arena asylum seekers and refugees have little agency without support from powerful others) and micro-level interactional power (in which arena, providing the context facilitates this, such individuals can and do exercise agency).

### **7.2.2 Methodological implications**

Two key methodological implications arise from the study, concerning firstly the utility of the analytical frameworks employed in the analysis, and secondly researcher positionality vis-à-vis the research.

In relation to the analytical approach, this study has uncovered the significant connections in the context of lawyer-client advice communication between the macro-level institutional order of the law, the meso-level structuring of discourse, and the dynamics of communication at the micro-level of the interaction order. The two analytical approaches of activity type analysis and transcontextual analysis that were employed in the study require that close analytical attention is paid to a large amount of data, but the study's findings demonstrate that they are capable of yielding rich insights into complex patterns of professional and institutional communication. The study underlines the importance of taking into account not only the micro-level of talk, but also the impact of phenomena visible at the meso- and macro-levels of analysis when analysing legal communication. This study suggests in particular that when researching institutional processes and their manifestations in everyday doings and beings, the combination of linguistic ethnography and institutional ethnography, which offers a methodology for closely investigating the work-text-work sequences (Smith, 2005) that make up the acts of institutions through the actions of the individuals connected to them, is a fruitful approach.

As regards researcher positionality, my experiences in this study of trying to obtain data in the sensitive legal advice field underlines the benefits but also the drawbacks of insider status for conducting a linguistic ethnographic study in legal settings. My lawyer identity helped me obtain access to, and understand, the research setting. For example, I understood the professional ethics and obligations surrounding legal practice, and was able to follow the legal reasoning applied by Julia in her advice to clients. Adopting an identity as volunteer at the advice service was also key; this gave me a role within the advice service's day-to-day functioning and thus a richer perspective on its advice work, as well as a legitimate identity in the setting, which my 'pilot' observation experience (see Chapter Four, section 4.2) had convinced me was necessary. However, my lawyer identity did not in fact help me advance the research in the private practice setting; asylum lawyers working in private practice were happy to be interviewed, but few seemed open to being observed, which would have put added pressure on their already busy workloads. The pressured environment of legal advice work means that this setting is all too often closed off to researchers. Further, in the research site of the advice service that I did access, my lawyer identity impacted on my ethical positioning, and consequently on how I approached data collection, as previously

discussed in Chapter Four (section 4.4). My experiences demonstrate that insider positioning can be, but is not always, helpful here.

### **7.2.3 Researching multilingually implications**

In relation to researching multilingually, this study has highlighted the possibilities for researchers to carry out research within sites of linguistic and cultural unpredictability, and involving languages that they themselves have no or limited competence in. In such circumstances, research depends upon researchers both utilising all the linguistic resources available to them in their wider networks, and making conscious and purposeful decisions about the limits of research. I utilised social and academic networks to identify and recruit research assistants to process data into a translated form that I could analyse, and I was fortunate to be able to recruit suitable individuals and procure funding to process a large chunk of my data. I was unable to recruit suitable assistance for all languages in my data, however, limited as I was by funding, timing and by the recruitment criteria I set myself (discussed in Chapter Four, section 4.3.2). The fact of working alone with translated data also limited my options for analysis; for example, I deliberately made no attempt to analyse the prosodic features of data in Arabic and Chinese, aware that my interpretations of such features would be unreliable. My own range of linguistic and cultural resources and experiences of multilingual and intercultural communication undoubtedly played a role in sensitising me to the possibilities and limitations of the research. The study thus demonstrates the possibilities and the constraints of researching multilingually in sites of linguistic and cultural unpredictability, and also the value of Holmes et al.'s (2013, 2016) framework of realization, consideration and informed and purposeful decision-making when researching multilingually.

### **7.2.4 Practice/professional implications**

In the area of professional practice, the study has several implications. Firstly, there are implications for legal training in the area of multilingual and intercultural communication. Training for the legal profession in England and Wales is currently in a state of flux following a comprehensive review (Legal Education and Training Review, 2013), which noted that there were 'knowledge and skills gaps' (p. xii) in the areas of legal ethics, values and professionalism, communication skills, and equality and diversity. The review recommended that the requirements for education and training in these areas be strengthened, and the findings of the study could be used to raise awareness and provide practical skills training to lawyers and student lawyers about how to provide advice across cultural and linguistic borders. Such training could

include how to identify and plan to address communication needs in advance of advice meetings; ways of doing relational work in multilingual and intercultural communication, and the importance of this; the need for flexibility in structuring the advice meeting and ensuring that the client has opportunities to contribute; strategies for successful oral second-language communication, including linguistic accommodation, communicative leniency, and techniques for negotiating understanding; ways of drawing on other resources such as documents and issues to be aware of when doing this; how to work with interpreters effectively, and issues to be aware of when communicating through an interpreter; sourcing trained interpreters, and the implications (positive and negative) of using trained and untrained interpreters.

The study also has implications for the role of interpreters in legal advice-giving, which Ahmad (2007) argues is at present given insufficient consideration. The study highlights both the positive role that interpreters with a suitable level of linguistic and contextual knowledge play in giving legal advice across languages, their position as active agents in the communication act, and the considerable responsibilities they carry. It draws attention to the way in which use of a 'mediated approach' (Hale, 2007, p. 42) to interpreting in this context can lead to a blurring of interactional roles, with the interpreter using this mode acting as either or both of co-client or co-counsel (Ahmad, 2007), and the need to be aware of this. It also supports Corsellis' argument that, like law and medicine, interpreting is a profession in the exercise of which 'trust has to be engendered because the recipient of the service is not in a position to judge its quality at the point of delivery' (Corsellis, 2008, p. 7), and that a professional framework of training, qualifications and regulation for interpreters is necessary.

Finally, the study has potential to provide a basis for training to asylum seekers and refugees about what to expect from a legal advice meeting, and how they can prepare for better communication within it. Only very limited advice is already available for asylum seekers about communication with lawyers (Right To Remain, 2016a), focusing on the need for clients to keep in contact with their lawyers, and ways of getting in touch with them for updates and to ask questions. Awareness-raising training could be provided to address issues such as informing lawyers about clients' communication needs in advance of a legal advice meeting; what to expect during a meeting; the importance of bringing documentation to a meeting; the importance of asking for clarification and how to use strategies for understanding (repetition, explaining things more simply, expressing non-understanding, asking for information in writing), and how to work with interpreters. Whilst the study indicates that some individuals have many of these skills already, others may benefit from such information and advice.



### **7.3 Limitations, directions for future research, and conclusion**

In this section I highlight some key limitations of the study, and directions for future research. I conclude by summarising the main contributions of my study.

#### **7.3.1 Limitations of the study**

Two limitations (discussed in Chapter Four, section 4.3.2) arise from the researching multilingually challenge described in Chapter One, of carrying out research in a setting of linguistic and cultural unpredictability. Firstly, I was not able to recruit suitable research assistance to transcribe and translate all of the relevant interactional audio data I collected – one meeting containing Tigrinya, interpreted by a non-professional interpreter, remains untranscribed and was excluded from the data set analysed in the thesis. Secondly, my choice of methodologies for analysis was impacted by the linguistic resources available to me, since detailed turn-by-turn analysis of, e.g., prosodic features, overlaps and interruptions, and contextualization cues in the Arabic and Chinese language data was not possible. Instead, I worked with translated data, which was sufficient for me to draw some conclusions about the micro-level impact of utterances in English, and about the overall dynamics of communication at the meso-level. The analysis carried out is however incomplete, and would benefit from the involvement of co-researchers with knowledge of the languages and cultures of the client and interpreter participants.

The research was also, as discussed in Chapter Four, section 4.4.3, limited by the sensitivity of the research context and the work going on within the research site, influenced by my lawyer identity and the resultant ethical stance I took during the data collection. At the design stage I decided not to seek to video record advice meetings, which meant that non-verbal communication taking place during legal advice communication has been only minimally discussed in this thesis. I also did not manage to procure any interviews with client participants, nor obtain many copies of documentation referred to within the meetings observed. The analysis has therefore centred on the interactional audio data collected, supplemented by observational notes, fieldwork notes and other ethnographically gathered data. The findings, which focus on the communication processes and meanings emerging from the communication practices observed and recorded, reflect this, and do not include much detail on some of the wider contexts surrounding asylum and refugee legal advice such as the political climate, and legal aid funding.

Connected with this, I also did not arrange retrospective interviews with participants to review my initial findings with them or carry out member checking through playing audio recordings back and asking for a commentary. Such activities, in one view, could have increased the credibility of

my conclusions by allowing me to check my own interpretations of the interactional data with participants and triangulate my findings (Lincoln & Guba, 1985). However, in another view, retrospective interviews arguably give participants an opportunity to reposition themselves or re-frame their actions within the data retrospectively, introducing into the data justifications or motivations that were not present at the time of the interactions themselves (ten Have, 2007). In this view, a retrospective interview would add an additional layer of data consisting of 'accounting practices' (p. 31) but there is no guarantee that it would lead to more reliable findings.

A further limitation (which, in truth, is more a feature of the research design) is that certain findings of this study may not be widely transferable to other legal or professional advice settings. Case study approaches seek to provide sufficient 'thick description' (Lincoln & Guba, 1985, p. 316) of the social context of the research that other scholars may be able to draw parallels with other, similar social contexts and reach conclusions about the transferability of research findings to such other contexts. This study's various findings may each be transferable to different settings: for example, the findings regarding the CAT structure of legal advice-giving may be transferable to other legal advice settings, although the flexibility dimension of this may or may not be transferable to contexts which do not involve the same degree of intercultural and multilingual advice-giving. The model of the interlinked institutional intertextual hierarchies presented in Chapter Six is unlikely to be generalizable beyond the particular context of late-stage asylum advice, although modifications of it may well be applicable to other situations within which legal advice is being given on an advanced legal matter, and it offers potential for theoretical generalization. The findings regarding the position of the interpreter in legal advice interactions are likely to be transferable to other legal advice settings wherever community interpreters are routinely engaged (e.g., family law or criminal law), but may not be transferable to, e.g., business legal advice settings, where there may be greater financial resources available to pay for interpreting services and/or a different dynamic between lawyer and client. It is for the researcher in any new study to determine, on the basis of the data presented in this thesis, the extent to which findings are transferable to new contexts (Lincoln & Guba, 1985), and to that end a high level of detail has been included.

### **7.3.2 Directions for future research**

Several avenues are open for further research to deepen and complement the findings reported in this thesis.

Firstly, through my fieldwork, in addition to the data discussed within the thesis, I obtained interactional audio data from a set of seven meetings at the advice service focused on bureaucratic and administrative tasks related to family reunion applications (data set (c) mentioned in Chapter Four, section 4.3.2). Whilst not included in this thesis, because of this study's focus on legal advice-giving as opposed to activities of legal representation, analysis of this additional data set would complement the findings of the thesis by revealing the dynamics of a further aspect of lawyer-client interaction in this research site.

Secondly, I carried out a range of semi-structured interviews with solicitors and caseworkers, interpreters, clients, NGO workers and UKVI officers whose activities were not sited within the advice service, and which were not therefore drawn on in detail for the analysis in this thesis. Detailed thematic analysis of these data would potentially contribute additional and valuable perspectives on the more general context of institutional communication in asylum processes.

Finally, a joint analysis of the legal advice meetings considered in the thesis carried out together with a bilingual co-researcher would provide further insight into the work of interpreting and the position of the interpreter within these legal advice meetings. Such analysis could draw on theories of dialogue interpreting (e.g., Wadensjö, 1998), and make a deeper contribution than this thesis does to the interpreting and translation literature, within which studies of legal advice interpreting are rare.

### **7.3.3 Summary of contribution**

This thesis contributes to the fields of intercultural communication studies and professional and legal communication studies by improving understanding of the processes and challenges of multilingual and intercultural communication in the context of late-stage asylum and refugee family reunion legal advice interactions through an in-depth linguistic ethnographic case study. In doing so, the thesis also responds to broader issues of language and social justice, language use within institutions, and the linguistic accessibility of institutions. Finally, the thesis demonstrates how linguistic ethnography and institutional ethnography can fruitfully be combined to obtain a broader picture of how everyday communication at the meso- and micro-levels in institutional settings is impacted and shaped by the macro-structures and processes of the institutions that they are situated within.



## Appendices

## **Appendix A – Summary of relevant legal issues**

This Appendix A provides a brief outline of the following legal issues that are relevant to the data in this thesis:

- A1. The role of credibility in asylum decision making
- A2. The legacy programme of processing delayed asylum claims
- A3. Asylum appeal and fresh claim processes
- A4. Data protection legislation and subject access requests
- A5. The refugee family reunion application process

### **A1. The role of credibility in asylum decision making**

Where documentary evidence is available to back up the individual's account of actual or feared persecution, this will be submitted to UKVI. Often, however, there is no such evidence and the claim will rest on the credibility of the applicant's oral account (Good, 2009). The relevant authorities must find that the applicant's account is credible if they are to grant asylum (UN High Commissioner for Refugees, 2011 paras. 195-204). Assessing the credibility of an applicant's narrative is therefore a central aspect of the asylum decision making process (Bohmer & Shuman, 2008; Good, 2011; Johnson, 2011; Thomas, 2006).

The meaning of credibility in UK law is specified in Part 11 of the Immigration Rules (the UK secondary legislation under which asylum claims are determined), which provide at Rule 339L that an account is satisfactory if (amongst other conditions) 'the person's statements are found to be *coherent* and *plausible* and *do not run counter to available specific and general information relevant to the person's case*' and that 'the *general credibility* of the person has been established' (Home Office, 2016, my emphasis, see also Appendix N). This wording derives directly from the underlying international law (UN High Commissioner for Refugees, 2011 para. 204). Detailed UKVI guidelines (Asylum Policy Instructions) exist setting out how a determination on credibility is to be made (Home Office, 2015), which stipulate that credibility is not to be equated with absolute proof of truth and that a lower standard of 'a reasonable degree of likelihood' that the narrative is true should be applied (Home Office, 2015 section 5.2). The issue essentially comes down to whether or not the decision maker at UKVI believes that there is a reasonable degree of likelihood that the applicant is being truthful.

The consequences of finding an applicant not credible are far-reaching. Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (see Appendix N) allows any previous behaviour by the applicant that the deciding authority (UKVI or the Immigration and Asylum Tribunals) thinks was designed or was likely either to mislead, or to conceal information, to be taken into account at the decision maker's discretion at any later stage in an applicant's case. Negative credibility findings can therefore be returned to by the authorities at any later stage of an asylum process, including in appeals and fresh claim applications (see below). Griffiths writes that the issue of credibility 'has serious implications, given that being branded a liar tends not only to affect the outcome of asylum claims, but the likelihood of being detained and the ability to obtain legal representation' (Griffiths, 2012, p. 10). Other researchers report that many actors with long experience of the asylum process find that a 'culture of disbelief' (Griffiths, 2012, p. 8; Herlihy & Turner, 2009, p. 182; Thomas, 2006, p. 84) operates among decision-makers which means even small discrepancies in accounts are seized upon as grounds to make negative credibility findings. Deliberate concealment of facts, if this is discovered by UKVI, is extremely damaging to an applicant's case, but even the accidental omission of information, or honest mistakes when recalling events or facts, can be detrimental to an applicant's chances of success.

## **A2. The legacy programme of processing delayed asylum claims**

As mentioned above, UKVI can sometimes take significant time to make a decision, which can extend into years in complex cases. For some individuals, it is seemingly impossible to get at enough facts to determine a claim, and backlog cases have accumulated over the years. The term 'legacy' or 'legacy backlog' refers to the controversial unofficial programme, running between 2006 and 2011, of processing by UKVI of a backlog of 'legacy asylum cases' (House of Commons Home Affairs Committee, 2016, p. 23). Under this programme, applications which had been in the system since any time prior to 5 March 2007, but which UKVI was 'unable to continue processing' (p. 23), were handed over to a dedicated Case Resolution Directorate to be dealt with, resulting sometimes in deportations but more often in grants of leave to remain (often without explanation). Many of these were long standing cases in which applicants had been waiting for years for a decision. In 2011 when the Directorate closed, its backlog of some 147,000 outstanding cases was handed back to UKVI, who continue to process this body of work (although in 2012 some 64,600 asylum cases where UKVI had lost contact with applicants were unilaterally closed).

Legacy is controversial because there is seen to be a lack of transparency over the operational processing of legacy cases. Those who know that they are, or could have been, within the 'legacy

backlog’ but who have not received a grant of asylum, are in particularly insecure and precarious positions (Griffiths, 2014): there is no clear policy covering when they might expect a decision about their case, nor any clear explanation about why others in similar situations who applied for asylum before 2007 received grants of asylum under the legacy programme, whilst they did not. Issues around legacy were relevant to and discussed in the majority of meetings featuring in the data set for Chapter Six.

A3. Asylum appeal and fresh claim processes

The options open to applicants if they are refused asylum depend entirely on their circumstances and are too complex to discuss in detail here. They are however summarised in the diagram in Figure A1 below.

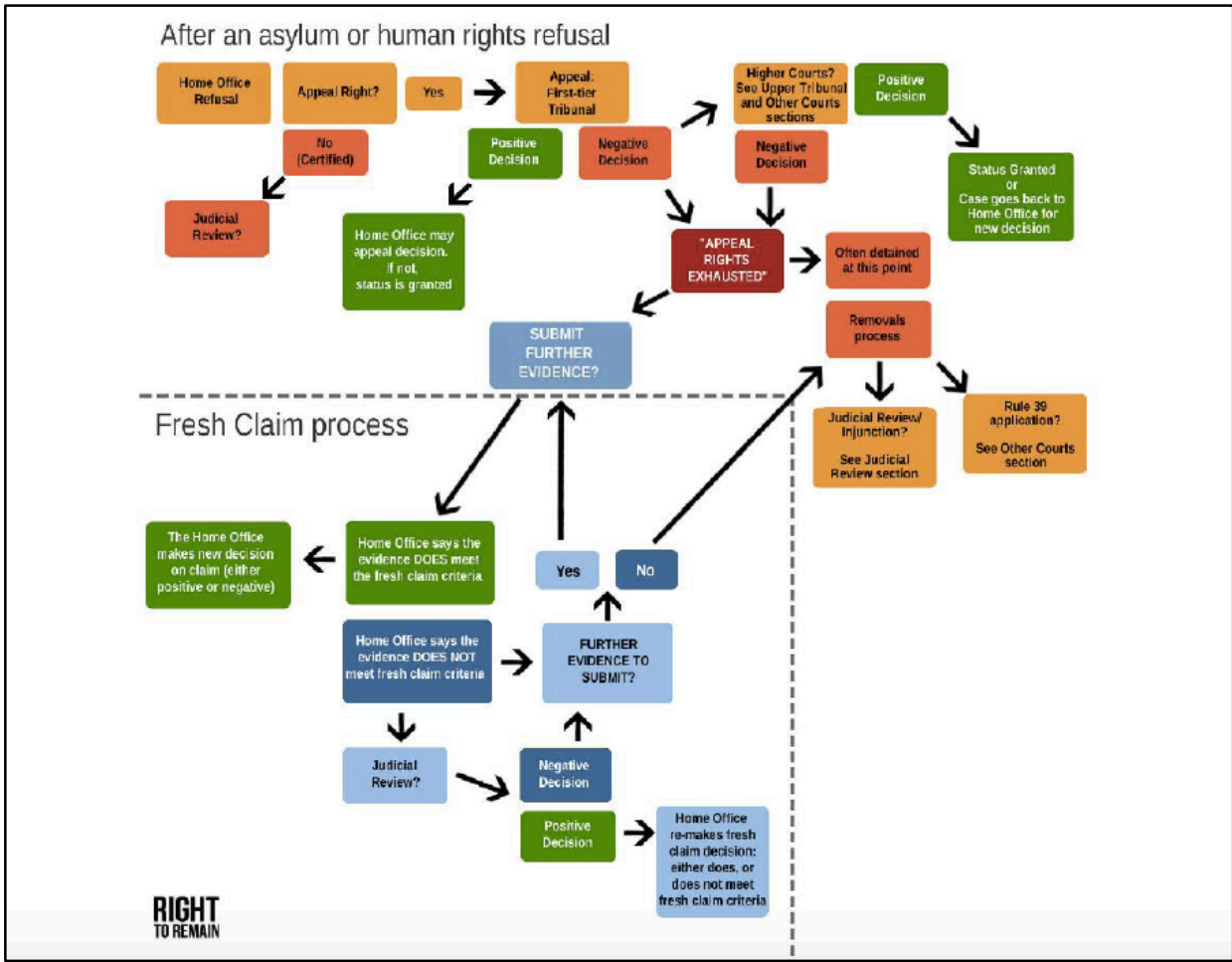


Figure A1 – Asylum and fresh claim process following a refusal (<http://righttoremain.org.uk/toolkit/freshclaim.html> viewed on 7 October 2017)



A refusal decision by UKVI will in most circumstances carry a right of appeal, allowing the applicant to file an appeal in the First Tier Tribunal (Immigration and Asylum). Appeals attract a fee (£140 where requesting an oral hearing) and must be filed within 14 calendar days from receipt of the refusal letter. Where an appeal to the First Tier Tribunal fails, there is only a right of further appeal to the Upper Tribunal (subject to obtaining permission to appeal) if there is a valid argument about whether there has been a mistake about how the law should be applied to the facts. Short deadlines for making applications, and fees, also apply at these successive stages of appeal. If permission to appeal is refused, an individual becomes “appeal rights exhausted”. If a second appeal is allowed but the judge dismisses it, there is sometimes a possibility of obtaining permission to appeal again to the Court of Appeal, but doing this is quite complex. Once all appeal rights have been exhausted, the only option for further challenge is to mount a Judicial Review, a complex and expensive administrative law remedy through which the legality of the Tribunal’s or Court’s decision can be questioned (court fees alone are in the region of £800).

### **Fresh claims**

If an individual can no longer pursue his or her case through the appeals process, (s)he does have the option of submitting another claim if (s)he can provide some major new evidence about his or her situation. A fresh claim is a new claim submitted by a person who has previously been refused asylum, based on evidence that is ‘significantly different from the material that has previously been considered’ (Immigration Rule 353, see Appendix N). Applicants must fill out a ‘further submissions’ form (available from the UKVI website), prepare the new evidence in documentary form, together with a translation to English where necessary, and then make an appointment to attend UKVI’s Further Submissions Unit in Liverpool to hand these documents over in person. Applicants must travel to Liverpool to attend the appointment to make their submissions, unless they obtain permission to send them by post or fax.

When a failed asylum applicant submits new evidence to UKVI, it is firstly assessed against the test of significant difference from previous evidence, and a decision is made about whether to accept or reject the submission as a valid fresh claim. If rejected, there is no right of appeal to the Immigration and Asylum Tribunal and the only way to challenge the decision is by way of Judicial Review. If accepted, the evidence will be assessed together with the previous asylum claim to see whether these together merit the grant of asylum, and will result in either a grant or a refusal of asylum. There is a right of appeal to the Immigration and Asylum Tribunal against a refusal of a

valid fresh claim, if the appeal is filed within 14 days of the refusal decision. Refusal will usually trigger deportation procedures.

#### **A4. Data protection legislation and subject access requests**

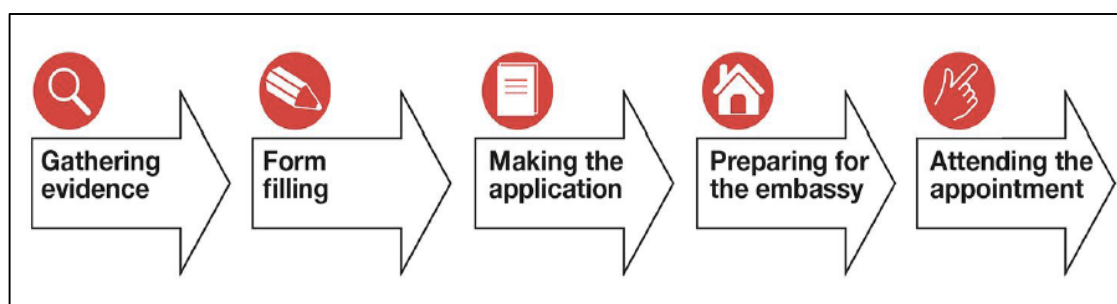
It can be difficult for individuals whose cases have been in the asylum system for years, and who may have spent periods of time living in destitution or in detention, to keep copies of all their case documentation. It is not uncommon for clients to need to request a copy of their case records from UKVI in order to obtain a complete history of their situation. The UK data protection legislative framework makes this possible.

The Data Protection Act 1998 requires that any organisation or individual holding personal data about another individual must comply with certain requirements when processing such data. For example, personal data must be used fairly and lawfully, for limited and specifically stated purposes, kept accurate, and kept safely and securely and for no longer than is absolutely necessary. Section 7 of the Data Protection Act (see Appendix N) provides that an individual may ask an organisation (or individual) holding personal data about that person for details of what personal data about him or her is being held. This is known as a subject access request. An individual making a subject access request has a right (subject to certain limited exceptions) to be given a description of the personal data held about him or her, the reasons it is being processed, and whether it will be given to any other organisations or people; given a copy of the information comprising the data; and given details of the source of the data (where this is available) (Information Commissioner's Office, 2017). The data controlling organisation may ask for the individual to pay a fee of up to £10 before processing the request, but has forty calendar days from the later of the date of receipt of the request and payment of any fee demanded to respond to the request and provide the information requested.

The Data Protection Act 1998 is in the first instance policed by the Information Commissioner's Office (ICO) (<https://ico.org.uk>), and if an organisation fails to comply with its duties under the Act, individuals may make a complaint to the ICO, who will investigate it.

#### **A5. The refugee family reunion application process**

The application process for refugee family reunion visas is illustrated in Figure A2 below.



**Figure A2 – Refugee family reunion visa application process** (British Red Cross, 2016, p. 9)

The application is made in two stages. The first stage is pictorially represented with the first three arrows in Figure A2. An application form and additional Appendix 4 form must be completed and submitted for each family member, containing all details of the refugee (the “sponsor”) and his or her family member (the “applicant”). This form is usually completed by the refugee in the UK and although it is possible to apply by post using paper forms, the form is often filled out and submitted online. If there are several family members, multiple forms must be completed. In order to complete the application, key documentation and evidence must be gathered. For example, all family members must normally have a passport; official documents such as marriage and birth certificates, and any photographs or other evidence proving the family relationships must be provided, with certified English translations if necessary; details such as the applicant’s previous travel history and the name, date and place of birth of the applicant’s parents must be gathered. Evidence showing that the sponsor and the applicants have a ‘subsisting relationship’ (Beswick, 2015, p. 8), such as records of frequent contact by phone or social media, money transfers to dependents, evidence of any travel to visit family members, etc. must also be provided (all accompanied by translations to English if necessary). All original documents need to be with the applicant family members, therefore photocopies of passports, certificates etc. are often sent to the refugee in the UK to use when filling out the application form. Any original documents that are with the refugee in the UK must be sent overseas to the applicant family members in time for the second stage, together with a printed copy of the completed application form.

In the second stage, represented with the fourth and fifth arrows in Figure A2, the refugee’s family members (the applicants) must attend an in-person appointment at a British Embassy/UKVI Visa Application Centre. The date and time of this appointment is booked online when the completed application form is submitted – usually by the refugee – and will be a few weeks after the

submission of the application form. Family members in some countries may be required to take a tuberculosis (TB) test and get a TB test certificate before they attend the appointment. At the appointment, the applicant(s) hand over the application documentation and sometimes have a brief interview. This can require applicants to travel internationally, possibly through areas of conflict or other insecurity, if they live in a country where no British Embassy or Visa Application Centre is situated. In addition to the financial cost of travel, therefore, applicants must sometimes put their personal security at risk to attend this appointment (Beswick, 2015). The documentation is checked at the appointment, but no decision is issued at that point. Instead, the application is forwarded to an entry clearance officer (ECO) based at a UKVI regional visa processing centre for review (for example, applications made in Sudan are sent to a centre in Pretoria, South Africa).

Following review, a decision is issued by the ECO, either granting or refusing a visa. The decision is sent in a letter to the applicants (the family members). If a positive decision is issued, passports of the family members must be sent to the Centre to be endorsed with a visa which will permit travel to the UK within a defined time window (which can be as short as one month). If a visa is refused, reasons are provided for the refusal. Decisions can take up to three months to be issued. Available options following a refusal can vary, and the refugee family members of applicants will often seek legal advice if an application is refused. Applicants have a right to appeal against the decision in the Immigration and Asylum Tribunal, but any appeal must be filed no later than 28 days following the date on which the decision letter was received by the applicant and action (supported by legal advice) must therefore be taken quickly.

## Appendix B - Sherr's (1986a) model for initial legal advice interaction: Key tasks and skills

This Appendix B outlines a model of interaction in the initial lawyer-client meeting developed by Sherr (1986a, 1986b, 1992) from research and pedagogic experience. The model comprises a set of 13 tasks to be performed in three distinct stages (detailed in Figure B1 below), and 18 skills (listed in Figure B2) that lawyers should demonstrate in the carrying out of these tasks.

### The 13 Tasks

Listening	1. Greet, seat and introduce.	6. Note taking
	2. Elicit story with opening question etc.	
	3. Listen carefully to basic outline of personalities and case from client's own unhindered words.	
Questioning	4. Question on facts for gaps, depth, background, ambiguities, and relevance.	
	5. Sum up and recount lawyer's view of facts, and check for client's agreement or amend.	
Advising	7. State advice and/or plan of action and deal with question of funds.	
	8. Repeat advice/plan of action and check for client's agreement or amend.	
	9. Recount follow-up work to be done by client.	
	10. Recount follow-up work to be done by lawyer.	
	11. State next contact between lawyer and client.	
	12. Ask if "Any Other Business" and deal with it.	
	13. Terminate, help out and goodbye.	

**Figure B1 – First Interview: the Thirteen Tasks by Stages** (Sherr, 1986a, p. 21)

The three stages of the initial lawyer-client meeting are: (a) 'listening', or helping or enabling the client to tell the story naturally, in which the lawyer participates minimally, only with encouragement; (b) 'questioning', an active questioning of the client to gain more information, fill in gaps or clear up ambiguities, followed by a lawyer summary of the issue and the client's wishes as a comprehension check, in which lawyer and client participate more equally; and (c) 'advising', delivery by the lawyer of their advice and options for action, reaching agreement with

the client about the best option and agreeing on the next steps including the next meeting, in which the lawyer leads the activity (Sherr, 1986b, p. 331, 1986a, p. 17).

### **The 18 Skills**

1. Handling personal and confidential topics.
2. Not accepting client's jargon.
3. Not overusing legal terminology.
4. Precision in obtaining information.
5. Efficiency in obtaining information.
6. Picking up client's verbal cues.
7. Not over-repeating of same topics.
8. Clarifying gaps or confusions.
9. Controlling the client and "irrelevant" information.
10. Facilitating the client to talk.
11. Not using "leading" or "closed" questions.
12. Not using complex questions.
13. Ease with client.
14. Empathy with client.
15. Reassurance of client.
16. Time control throughout.
17. Opening/closing ease and control.
18. Giving advice and counselling.

### **Figure B2 – First Interview: Skills Headings** (Sherr, 1986b, pp. 343–4)

These 18 skills, all communication-focused, were taken from doctor-patient consultation studies and supplemented with extra categories developed in pilot studies in Sherr's teaching and assessment programme.

## **Appendix C – Bremer et al.'s (1996) linguistic strategies for achieving understanding in intercultural encounters**

Bremer, Roberts, Vasseur, Simonot, and Broeder's (1996) longitudinal study focused on linguistic strategies for achieving understanding in intercultural encounters between institutional representatives and recently-arrived migrant workers in various European countries. Institutional representatives used their L1 in a range of work-based settings, requiring migrant workers to use an L2, which they had no or limited competence in. Through analysis of a mixture of recorded naturally-occurring interactions, extended simulated interactions involving institutional representatives, role-plays between participants and researchers, and feedback sessions, the team identified a number of strategies employed by both parties in these interactions to achieve at least some level of understanding.

The list below summarises the main strategies observed being used by both parties.

### **1. Institutional representatives' (L1 speakers) strategies**

- (a) repeating and reformulating information to maximise the chances of understanding;
- (b) displaying a positive 'metamessage' (p. 93, citing Bateson, 1972) through a positive attitude and approach to understanding problems;
- (c) avoiding hypothetical questions or statements;
- (d) accommodating language (making it more accessible, p. 174), for example by 'speaking...slowly, emphasising keywords, specifying and reformulating' (p. 137);
- (e) allowing participant-selected topics into the interaction;
- (f) giving room to speak by creating pauses in interaction, or offering speaking turns to the minority speaker;
- (g) taking up or restructuring fragments or incomplete contributions;
- (h) setting the scene for the interaction metadiscursively through comments about the topic or structure of the interaction; and
- (i) making speech more explicit in order to minimise the inferences that the hearer has to make (p. 174-5).

### **2. Migrant workers' (L2 speakers) strategies (often used in combination)**

- (a) not signalling the non-understanding in the hope that subsequent interaction will resolve it;
- (b) making general, impersonal comments to elicit further information;
- (c) guessing at the appropriate response and trying this;

- (d) reprising part of the non-understood utterance to request clarification;
- (e) explicitly seeking clarification (more common in simulated interactions than real ones, because to seek clarification in a real-world encounter involves a loss of face, p. 73);
- (f) using humour to manage face and prolong interactions; and
- (g) asking questions as a means of prolonging interactions.



## Appendix D - Summary of public service interpreting training in the UK

In the UK, a range of training courses in community interpreting (a synonym for public service interpreting, Corsellis, 2008) are available from different providers at different levels, outlined in Table D1 below.

**Table D1 – Community interpreting qualification framework in the UK**

Qualification	UK Qualifications and Credit Framework (QCF) Level	Equivalent difficulty level
Diploma in Public Service Interpreting (DPSI)	Level 6	First (bachelors) degree
Diploma in Police Interpreting (DPI)	Level 6	First (bachelors) degree
Certificate in Community Interpreting (specialised)	Level 4	Foundation (first) year of bachelors degree
Certificate in Community Interpreting	Level 3	A-level
Certificate in Community Interpreting	Level 1	GCSE grade D-E

The most challenging of these is the Diploma in Public Service Interpreting (DPSI), a Level 6 qualification accredited and examined nationwide by the UK Chartered Institute of Linguists. Depending on the pathway chosen, the DPSI equips interpreters to work in either legal contexts including courtrooms; healthcare contexts; or local government contexts. Interpreters working in the English court system are required to hold the DPSI in English Law. An equivalent qualification, the Diploma in Police Interpreting (DPI), is required for police-related work, and the Home Office require either the DPSI, the DPI or an equivalent level qualification.

Below this level, Certificates in Community Interpreting are offered by a range of private training providers at QCF Levels 1, 3 and 4. The Level 4 Certificate is tailored to a particular context, usually mirroring the range of DPSI/DPI pathways available. Level 3 and Level 1 Certificates consist of more generalised training, although the Level 3 Certificate provides an introduction to the different contexts of community interpreting work.

I interviewed a director of a community interpreting training agency about training for interpreters. At this training institution, in a Level 3 Certificate course interpreters are taught:

- techniques for dealing with the range of tasks they must be able to perform;
- how to introduce themselves, explain their role and their impartiality, and test for mutual understanding at the start of every assignment;
- to set aside personal views of the situation;
- to refrain from becoming personally engaged in the interaction;
- to act and behave professionally;
- the importance of asking for clarification and explanation of unfamiliar terms or dialectal features;
- the need to be aware of the situational context and any specific rules of interaction; and
- the importance of continuing professional development, and in particular maintaining and developing their vocabularies and language skills. (interview record, 15 October 2015)

The agency director informed me that because of the low status of, and low rates of pay for interpreting work in the UK, around 85 percent of the interpreters whom her agency trains at Level 3 use the qualification as a stepping stone into other areas of work rather than continuing as professional interpreters. For individuals who are highly qualified in their own countries, gaining an interpreting certificate is sometimes the only accessible way to obtain a UK-recognized qualification, which can then open up other areas of work more suited to their skills. The director observed in her opinion, that the skills drain that this produces is a contributory factor to the generally low standards across the UK interpreting industry (interview record, 15 October 2015).

## Appendix E - Ethics application and ethical approval confirmation

### Application for Ethics Approval

Name	Judith Reynolds
Email address	j.t.reynolds@durham.ac.uk
Title of research project	Multilingual and intercultural communication within the UK asylum procedure: a study of asylum applicants' interactions with institutions and the law
Date of start of research project	1 October 2015 (anticipated start of data collection period)

	Please tick one
PGR Student	<input checked="" type="checkbox"/>
PGT Student	<input type="checkbox"/>
UG Student	<input type="checkbox"/>

For PGR, PGT and UG students

Programme	PhD Education
Supervisor	Dr Prue Holmes

For staff

Staff	
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Is the research funded	<b>Y</b>
Funder	Arts and Humanities Research Council (through the Researching Multilingually at Borders large grant, reference AH/L006936/1)
List any Co-Is in the research	

Other

Other	
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Please give further details	
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<p>(1) Does the proposed research project involve data from human participants? This includes secondary data.</p> <p>If the research project is concerned with the analyses of secondary data (e.g. pre-existing data or information records) please continue with Q6-9</p>	<p>(1)    <b>Y</b></p>
<p>(2) Will you provide your informants – prior to their participation – with a participant information sheet containing information about</p> <p>(2a) the purpose of your research</p> <p>(2b) the voluntary nature of their participation</p> <p>(2c) their right to withdraw from the study at any time</p> <p>(2d) what their participation entails</p> <p>(2e) how anonymity is achieved</p> <p>(2f) how confidentiality is secured</p> <p>(2g) whom to contact in case of questions or concerns</p> <p>Please attach a copy of the information sheet or provide details of alternative approach.</p> <p><i>Please see attached Participant Information Sheets. There are five different formats as follows:</i></p> <p><i>Sheet 1 – asylum applicants at Research Site 1 (law firms or advice centres)</i></p> <p><i>Sheet 2 – asylum applicants at Research Site 2 (UKVI offices)</i></p> <p><i>Sheet 3 – interpreters at Research Site 1 (law firms or advice centres)</i></p> <p><i>Sheet 4 – asylum solicitors at Research Site 1 (law firms or advice centres)</i></p> <p><i>Sheet 5 – UKVI officers and interpreters at Research Site 2 (UKVI offices)</i></p> <p><i>Please note that this is a multilingual study. I have provided all five formats in English for the purposes of the ethics approval review. However, asylum applicant participants may not speak or read English to a level which enables them to understand the Participant Information Sheet or an oral explanation of this in English. In practice I intend to have Participant Information Sheets 1 and 2 (including the declaration of consent section) translated into a range of languages known to be common first or official languages for current asylum applicants to the UK (for example, Tigrinya, Arabic, Urdu, Dari, Farsi, Somali, Chinese). As an additional safeguard for asylum applicant participants who may not speak or be literate in one of these languages, I also intend to explain the purpose and implications of the research to the asylum</i></p>	<p>(2a)    <b>Y</b></p> <p>(2b)    <b>Y</b></p> <p>(2c)    <b>Y</b></p> <p>(2d)    <b>Y</b></p> <p>(2e)    <b>Y</b></p> <p>(2f)    <b>Y</b></p> <p>(2g)    <b>Y</b></p>

<p><i>applicant participant face to face using the interpreter present at the research site to interpret, or I will alternatively ask the interpreter to translate the English version of the Participant Information Sheet (including the declaration of consent section) into the relevant language for the asylum applicant participant.</i></p>	
<p>(3) Will you ask your informants to sign an informed consent form?</p> <p>(please attach a copy of the consent form or provide details of alternative approach)</p> <p><i>Please see consent forms attached to the Participant Information Sheets.</i></p> <p><i>I will ask all professional participants (i.e. solicitors, interpreters, and UK Visas and Immigration officials) to sign an informed consent form. This will be done after having discussed the research with them in person, and also after full explanations of the research have been presented during access negotiations with relevant decision makers at their employers.</i></p> <p><i>I do not intend to ask that asylum applicant participants provide a signed consent form (unless it is immediately clear that the asylum applicant participant is a highly educated professional who is literate in the language of the form provided, able to understand its content and comfortable with providing signed consent). Instead I will seek oral consent from these participants to the research, once they have received the information in the Participant Information Sheet and the consent declaration orally or in writing in a language that they understand. This is for the following reasons connected to the multilingual and intercultural nature of the study:</i></p> <ul style="list-style-type: none"> <li><i>It may not be culturally appropriate to ask for a signed consent form. Depending on their social and cultural backgrounds, asylum applicant participants may not be familiar or comfortable with the formal approach to obtaining signatures as written confirmation of agreement or consent which is prevalent in the UK. For example, Copland and Creese (2015) report that in some cultures, asking for signed consent may be viewed as an extremely high-stakes move by participants, implying more serious consequences than actually exist for the participant, and may heighten tensions more than necessary. Since it will be difficult for me to predict in advance and research the cultural background of the participants I encounter, I prefer to take the approach of requiring only oral consent unless it is immediately clear that the participant is comfortable giving signed consent. This will call for reflexivity in the field.</i></li> <li><i>The asylum applicant participants in my study will be in a vulnerable situation at the time they are asked for consent to participate, in that they will be about to begin a long meeting or interview which may involve questioning over documentation or even about their identity, which has real significance for their asylum claim and which may be emotionally and mentally taxing. This is particularly true for Research Site 2 (UKVI interviews). Although the participants must be enabled to understand the research and give full consent to it, I do not feel that it is appropriate to increase the pressure on these participants more</i></li> </ul>	<p>(3) <b>Y and N</b></p>

<p><i>than necessary by asking them to provide a formal signed consent where oral consent is sufficient.</i></p> <ul style="list-style-type: none"> <li><i>Depending on the linguistic profile of the asylum applicant participant (which I cannot predict at this stage), the participant may not understand the consent declaration presented to them. In these circumstances a signed declaration would carry little real meaning in any case.</i></li> </ul>	
<p>(4) Does your research involve covert surveillance?</p> <p>(4a) If yes, will you seek signed consent post hoc?</p>	<p>(4) <b>N</b></p> <p>(4a) N/A</p>
<p>(5) Will your data collection involve the use of recording devices?</p> <p>(5a) If yes, will you seek signed consent?</p> <p><i>As above, I will seek signed consent from all professional participants. I will adopt the same approach detailed above in relation to asylum applicant participants for the reasons given.</i></p>	<p>(5) <b>Y</b></p> <p>(5a) <b>Y and N</b></p>
<p>(6) Will your research report be available to informants and the general public without restrictions placed by sponsoring authorities?</p>	<p>(6) <b>Y</b></p>

(7) How will you guarantee confidentiality and anonymity?

*I propose to implement the following measures:*

- Keep all forms of data which contain information through which participants can be identified secure – see attached Research Proposal for details of the measures proposed.*
- Upload audio data daily from the mobile recording device used to the secure storage location, and clear the memory of the mobile recording device after doing this (minimises the risk of loss of the device containing data).*
- Use pseudonyms as much as possible when writing observational field notes.*
- Only transcribe audio data containing identifying or compromising information to the extent necessary for analysis or illustration of findings.*
- When transcribing audio data myself:*
  - automatically change the names of participants in the transcripts;*
  - be aware of other details in the data which may serve as identifying markers (e.g. strong regional accent, references to locations, names, etc.), and consider on a case by case basis whether these details can and should be amended or disguised as transcription occurs to protect anonymity. If there is no material impact on using the data for the purposes of answering the research questions, such data should be amended. In either case the relevant passage will be marked either as amended for confidentiality reasons, or not amended and containing sensitive information, in the transcript.*
- Some of my audio data will be in languages that I have no competence in, and I will not necessarily be able to identify myself in advance whether or not they contain*

identifying information. When sending any such multilingual audio data to third parties for transcription and translation, I will:

- enter into a binding agreement with that party to ensure all data is kept confidential by them during and after the assignment, and destroyed without retaining copies after the assignment has been completed and returned to me;
- send only the extract(s) which is/are required to be transcribed or translated;
- check transcribed or translated data on return to find out whether identifying data is included and whether this can or should be amended or disguised to protect anonymity, as above.
- Refrain from being specific about the location of the research sites in any published output – specify only “in England” (see comment below).
- In notes and published outputs, anonymise the names of all individuals and firms/companies I work with.
- When using extracts of audio data in presentations, consider whether identifying features of speech such as regional accent, or the content of such data, may present a risk to the anonymity of participants and take appropriate decisions on the use of such data. This will depend partly on the nature of the audience for the presentation.
- When identifying data for use in published outputs, consider the risk of asylum applicants or other participants being identifiable through the information presented (eg country of origin, language spoken, details of their life story) and take decisions accordingly about what it is appropriate to publish, discussing with the participant if possible.

NB. It will not be possible to guarantee the organisational anonymity of UKVI because of their function and role in UK society. I will therefore need to discuss this with UKVI and ensure they are aware of this and comfortable with the organisation being identifiable. To protect the anonymity of UKVI staff and interpreters contracted to work with them to the extent possible, I will not refer to any particular geographic location in my outputs, describing the research only as taking place “in England”. Taking this approach should also help to protect the anonymity of other participants.

(8) What are the implications of your research for your informants?

- My participants will be asked to accept my presence, and that of my audio recording device, in two differently sensitive contexts.
  - In Research Site 1, the lawyer-client meeting, asylum applicants will be receiving advice from their lawyer about their asylum application, the outcome of which will determine the applicant's right to remain in the UK (and therefore safe from the persecution they fear).
  - In Research Site 2, the asylum interview carried out by UK Visas and Immigration (UKVI) when an asylum seeker first applies for asylum in the UK, the asylum applicant is required to explain his reasons for seeking asylum in full and to justify his claim to satisfy the requirements for refugee status under international law.

Both interactions are stressful for all parties and my presence may increase this stress. It will be important to be sensitive to this when carrying out fieldwork and to decide not to proceed if it appears there may be a significant negative impact of the research, such as emotional harm.

- *In relation to the research having an immediate impact, at Research Site 1 there is potential for a contribution to be made to the lawyer's work. My research may mean that an audio recording of the lawyer-client interview is available (where it otherwise would not have been) to the lawyer to help in their subsequent work of preparing or finalising a witness statement or other documents for the appeal. This may be helpful to lawyers and improve case handling. This possibility will be discussed with the lawyer during access negotiations.*
- *As with any workplace study, the potential vulnerability of the professional participants in my study must be considered. My study will be either directly or indirectly examining the ways in which lawyers, UKVI officials, and interpreters practice their respective professions. Insensitive handling of compromising data could be professionally embarrassing for them, or have worse consequences. Anonymising data should help with this but I will need to exercise care in making publication decisions about any such data, including discussing with the participant.*
- *The vulnerability of asylum applicant participants must also be considered. The socio-economic vulnerability of these participants must be recognised. Applicants are prohibited from working, and applicants without independent means are dependent on the state for what is often low-grade housing, and an extremely small asylum support subsistence income granted by the state. Socially and economically therefore, their position in society is vulnerable whilst their application or appeal is still pending and this vulnerability is at stake in the interactions I wish to observe, material conversations for the success or failure of their asylum application. This also leads to emotional vulnerability and extreme care must be taken at the start of, and during the course of, any research interaction to make sure that the asylum applicant is comfortable with participating. The importance of these interactions for their life circumstances is however a key reason why research should be carried out, in order to better understand the communication practices and processes taking place within them. Given the fact that successful communication is so important in these circumstances, it will be of benefit to understand what works well and how communication may be improved.*
- *My research may in fact be empowering for participants, or offer participants the potential for development. Through interviews and focus groups it will allow participants a forum to talk about and reflect on their own communication practices and experiences in the asylum process, where successful communication is so important. Reflection and discussion may be self-validating if it leads them to recognise the skills and abilities they already have in communicating multilingually and intercultural, and/or it may be a learning experience through which participants can identify strategies for improving their communication skills. At the very least, participation in the research will lead to participants being more aware of communication-related issues, which may help them in the future.*

(9) Are there any other ethical issues arising from your research?

- *I am a trained solicitor and practiced (commercial) law before moving into full time study at the start of my PhD. My legal training and identity are part of the rationale for choosing the research topic for this study, as I am interested in intercultural*



communication in legal settings. I will need to disclose my legal background to my participants in order to be fully transparent about my identity and the reasons why I am engaged in the research. This may bring up issues:

- For lawyers – they will be being observed and interviewed by another qualified lawyer, and this may alter the perceived dynamic from their point of view and lead them to feel more under scrutiny. I will need to be clear that my interest and research focus is in communication and not in other areas of legal practice, and my interest is not in critiquing them as asylum lawyers.
  - For asylum applicants – they may not appreciate that I am not qualified as an asylum lawyer (legal regulation of this area of advice mean that I am prohibited from advising on asylum law without special qualifications), and may come to view me as another person who could potentially help and advise them with their case. Other aspects of my identity as a white, middle class, British, English speaking academic may also contribute to this. I will need to be clear about the limits of my involvement (ie that I am a researcher, not a lawyer, in this situation) and about where I cannot help individuals with their case. This may lead to these participants feeling let down if they had developed other expectations about what I can offer them. I should have information available to offer them so that I can direct them to other sources of advice and support.
  - For UKVI officials – they may view me with more distrust if they are aware of my legal training, since they may conclude that I am capable of critiquing their approach to implementation of asylum law (even if it is not my aim to do so in this research). I will again need to be clear about my researcher role in order to avoid this to the extent I can.
- At Research Site 1, there is the potential for my presence in the lawyer-client meeting to affect the relationship of trust and confidence that the lawyer should, according to the principles of legal professional ethics, enjoy with his or her client. I will need to discuss this with lawyers when first negotiating access and show that I respect this relationship, which needs to be prioritised above the research. Practically speaking, I will need to allow the lawyer a period of time at the start of meetings, after the asylum applicant has been briefed about the research, to consult with his asylum applicant client away from me in order to ensure that the client is genuinely happy to proceed.
  - This is a multilingual study. Asylum applicant participants may not be English speakers and this will complicate the research process, as has already been highlighted elsewhere in this application form. Care will need to be taken to ensure that information is provided, and ongoing ethical issues are dealt with, in a language that they understand.
  - I propose to ask the interpreter to assist me with setting up the study with the asylum participants, in relation to obtaining their informed consent. There is an argument that this is exploiting the interpreter's position and compromising the purpose of the meeting or interview. The interpreter will be being paid (by UKVI or by the Legal Aid board) for his or her time, but the imposition of time at the beginning of the interview or meeting is a real one. However, this will not be a large incursion given the length of the meeting or interview, and it is by far the most practical way to address the issue of informed consent in a language the asylum applicant understands. The alternative would be to bring in an alternative interpreter, which would use even more time and be disproportionate in terms of resources. Provided the interpreter (and other participants, whose time will also be taken up) are engaged in the research this should not be too much of an issue. If any of the other participants are not engaged in the research, then the asylum applicant will not be approached as the research activities will not proceed in that meeting.

- *I also propose to run one or possibly two (depending on numbers) focus group sessions with asylum applicant participants in order to explore their views and experiences of communication in the asylum context. I have chosen a focus group approach rather than an interview approach in order to provide a more supportive, open and less power differentiated environment for these participants, and in order to try to address the power imbalances which will exist between myself and them. However I may need to recruit one or more interpreters to assist with running the focus group(s), depending on the language capabilities of the participants. This in itself may be difficult to predict. Also, the identity of the interpreter(s) may affect the power dynamics of the focus group interactions. These are ethical issues which I will need to consider carefully at this later stage of the study as they cannot be dealt with now.*
- *I also need to consider my personal safety and wellbeing during this project. In most situations my personal safety will be assured as I will be working within institutions and with professionals in working hours. I may want to consider arranging for a friend or colleague to be present with me at focus group sessions as a safety precaution. And finally, I must consider the potential effect of secondary traumatisation that I may feel if I am exposed to stories of abuse and trauma as part of this research. Durham University offers a counselling service which could be of support in that event, and I can also use my reflective journal/researcher diary and discussions with friends and colleagues to help to deal with this issue if necessary.*
- *In order to maximise the number of participants I attract, I would like to open up the focus group to asylum applicants other than the ones whom I have met during the course of my research. I may therefore try to engage contacts I have at a local migrant support group to assist with organising and publicising the focus group sessions. I have contacts with them because for the past nine months I have volunteered regularly as a volunteer English teacher at an English conversation group they run for migrants and may continue to volunteer there during my field work. If I use this network to organise my focus group, I may have participants coming to the focus group who know or recognise me, and whom I know or recognise, from the conversation group. This may be beneficial for the group dynamic during the focus group because some participants may know me and have a level of trust in me. However it may also create issues of positionality for me in the focus group (in that participants may expect me to behave as an English teacher and not a researcher) and be potentially confusing for the participants. I will need to be clear with participants that the focus group is a separate activity from my teaching activities and that information divulged during the focus group will not be used in the conversation group. It will help that focus group sessions will be organised at a different time and a different location to the conversation group sessions.*

#### Further details

1. *Please see the Research Proposal attached for further details of the study.*

2. *This research is an applied linguistic study of intercultural and multilingual communication, which will also consider methodological challenges of carrying out multilingual research. In addition to the BERA Ethical Guidelines, I have therefore considered the current ethical guidelines for applied linguists published by the British Association for Applied Linguistics (BAAL Recommendations on Good Practice in Applied Linguistics, 2006) ([http://www.baal.org.uk/dox/goodpractice\\_full.pdf](http://www.baal.org.uk/dox/goodpractice_full.pdf)) in designing the study.*
3. *I have prepared and attach outline interview/focus group schedules giving details of the sort of questions I hope to ask during the post-observation interviews and focus group sessions that I plan to run (one on one interviews with lawyers, UKVI staff and interpreters and focus group sessions with asylum applicants). However, the questions to be asked may change in order to address issues emerging from data analysis carried out during the observation period. Changes to questions will be generated by emergent themes of interest arising from preliminary analysis of data and by particular experiences during the interactions observed.*

### **Declaration**

I have read the Department's Code of Practice on Research Ethics and believe that my research complies fully with its precepts.

I will not deviate from the methodology or reporting strategy without further permission from the Department's Research Ethics Committee.

I am aware that it is my responsibility to seek and gain ethics approval from the organisation in which data collection takes place (e.g., school) prior to commencing data collection.

Applicant signature .....  
Date:.....

Proposal discussed and agreed by supervisor

Supervisor signature ..... Date:.....

## PhD Research Proposal

**Title:** Multilingual and intercultural communication within the UK asylum procedure: a study of asylum applicants' interactions with institutions and the law

### Objectives of the study:

- 1) To understand how multilingual and intercultural communication takes place in two formal interpreter-mediated meeting/interview settings within the UK asylum application procedure:
  - a) **Research Site 1:** meetings between asylum applicants to the UK and their lawyers.
  - b) **Research Site 2:** interviews between UK Visas and Immigration (UKVI) officers and asylum applicants.

### Description of target participants:

**Research Site 1:** (a) asylum solicitors working within law firms or law centres in England (*gatekeeper*); (b) interpreters engaged to interpret in the interactions under study; (c) asylum applicants who are seeking legal advice from the participating solicitors.

**Research Site 2:** (a) UKVI officers interviewing asylum applicants at UKVI centres in England (*gatekeeper*); (b) interpreters engaged to interpret in the interactions under study; (c) asylum applicants who attend interviews with the participating UKVI officers.

### Data collection methods and procedure:

Access to each Research Site will be negotiated by the researcher with the relevant gatekeeper and their employers.

- 1) **Ethnographic participant observation** at both Research Sites will be undertaken daily by the researcher for a set duration (e.g. two or three months), to be negotiated. **Field notes** will be made of observations and information gained from **informal interviews**.
- 2) **Audio recordings of meetings/interviews** observed by the researcher at both Research Sites will be made. Relevant sections of these will be **transcribed**, and where necessary **translated** into English by either a bilingual research assistant recruited by the researcher, or a professional transcription and translation service engaged by the researcher. They will be subject to **thematic and linguistic analysis**.
- 3) **Copies of documentation** referred to, and/or produced, during the interactions under study will be obtained by the researcher where possible. Where necessary these will be **translated** into English by either a bilingual research assistant or a professional translation service, and will be used to supplement analysis of other data types.
- 4) **A. Semi-structured interviews** will be carried out by the researcher with participants (a) and (b) after the period of participant observation is over. These will focus on the participant's experiences of communication within the observed interactions, and will be **audio recorded** and relevant sections **transcribed** for **thematic analysis**.  
**B. Focus group(s)** will be arranged by the researcher with as many of the asylum applicant participants (participant (c)) as possible, and also possibly other asylum seekers from the local community. These will focus on the participants' experiences of communication within the types of formal interaction under study and may need to be moderated by a bilingual research assistant. They

will be **audio recorded** and relevant sections **transcribed and translated** by either a bilingual research assistant or a professional transcription and translation service for **thematic analysis**.

- 5) **Research journal and research supervision records** will be made by the researcher at regular intervals during the course of the project. These may be used to supplement analysis of other data items.

#### **Data management proposals:**

Data will be stored in accordance with the Data Protection Act 1998 and Durham University's records management policies.

Under the terms of the funding for this research, data underlying published research must (unless there are compelling reasons not to do so) be made available for review upon request until at least October 2020 (three years after the end of the grant). In order to protect participant anonymity and confidentiality, data containing participants' personal data will not be included in the data made available for such review.

- 1) **Hard copy data e.g.** field notes, field documentation, interview notes, signed consent forms, researcher journal and supervision notes

Hard copy documents will be kept securely in a locked cabinet and may also be converted to secure electronic format by scanning the document and saving the resulting file to a secure location (secure University server or hard drive on researcher's password protected PC).

In any further research notes produced in hard copy or electronic form from primary hard copy documents, wherever possible personal data will be removed by anonymising participants and removing other information from which participants might be identified.

- 2) **Audio recorded data e.g.** audio recordings of Research Site interactions, semi-structured interviews and focus group sessions

Audio data will be uploaded to a secure location (secure University server or hard drive on researcher's password protected PC) at the end of each day's field work, and deleted from the mobile recording device daily to minimise risk of loss.

Wherever possible, audio data sent to a third party for transcription purposes will be edited beforehand to remove any personal data regarding participants. Where this is not possible due to the nature of the data, the researcher will ensure that a binding agreement is in place with the third party obliging them to keep any such data and any transcriptions of them produced confidential, to securely destroy all copies of data promptly following completion of the assignment they are given, and to comply with the Data Protection Act 1998 in respect of all data obtained from the researcher.

#### **Reporting strategies:**

The research will be written up into a PhD thesis and submitted for examination to Durham University. It is also intended that findings from the research may be published in article, book chapter or book format in a range of academic publications, and/or presented to academic or professional audiences. In any report, presentation or other publication arising from the research, participants will be anonymised and no information included that would make it possible to identify the participant individually.

Key findings will be fed back to research participants wherever possible. Also, it is hoped that briefing or training materials for asylum applicants, lawyers and UKVI officials will be developed from the research findings to improve communication practices going forward.

## **Participant Information Sheet 1**

### **Multilingual and intercultural communication within the UK asylum procedure**

You are invited to take part in a research study of multilingual and intercultural communication within the UK asylum procedure. Please read this form carefully and ask any questions you may have before agreeing to be in the study.

The study is conducted by Ms Judith Reynolds (the researcher) as part of her postgraduate studies at Durham University. This research project is supervised by Dr Prue Holmes (p.m.holmes@durham.ac.uk) from the School of Education at Durham University.

The purpose of this study is to understand how communication across languages and across cultures takes place in the asylum process in the UK. The study looks at communication during meetings between asylum seekers and their lawyers, and communication during asylum interviews with UK Visas and Immigration. It also looks at how researchers carry out research involving different languages.

The study will not have any direct impact on your case. However, it will hopefully lead to suggestions for how to improve communication between asylum seekers and lawyers and UKVI, and training about this for future asylum applicants to the UK, lawyers and UKVI staff. By taking part in the study, you will be helping the researcher to develop this training.

If you agree to be in this study, the researcher will:

- observe and audio record your meeting with your lawyer today (you can ask for the recording to be stopped, and for the researcher to leave the room, at any time)
- if you agree, and if your lawyer asks for this, give your lawyer a copy of the audio recording of the meeting to help your lawyer with preparing your case
- if you and your lawyer agree, take a copy of any documents discussed in the meeting and any documents (such as your witness statement) that are created by your lawyer after the meeting
- if your lawyer has an audio recording of your asylum interview at UKVI, and you and your lawyer agree, take a copy of this
- if you and your lawyer agree, observe and record other meetings about your case that you have with your lawyer after today
- invite you to come to a discussion group to be held in a few months' time, to talk with other asylum seekers about language and communication in the asylum process.

You do not have to take part in the study. Your lawyer does not expect you to say yes or no, and if you do not take part it will have no effect on your case. You can decide whether or not to take part. If you decide to take part now but later change your mind, you can withdraw from the study at any time by contacting the researcher without any negative consequences for you.

All audio recordings and documents collected will be kept secure and private (locked up, or stored in password protected computer files). They will only be shared with other persons involved in the research (such as the researcher's supervisors and any transcription and translation assistant employed by the researcher), who will also keep the information secure and private.

The information collected will be used to produce research and other reports about language and communication in the asylum process. In any report or article that may be published, your name will be changed and no other information will be included that will make it possible to identify you individually.

If you have any questions, requests or concerns regarding this research, please contact the researcher Judith Reynolds via email at [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or by telephone at [NUMBER REDACTED].

Funding for this project comes from the Arts and Humanities Research Council (UK) (grant reference AH/L006936/1). The study has been reviewed and approved by the School of Education Ethics Sub-Committee at Durham University (date of approval: DD/MM/YY)

Judith Reynolds

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[www.durham.ac.uk](http://www.durham.ac.uk)

Durham University is the trading name of the University of Durham



### Declaration of Informed Consent

- I agree to participate in this study, the purpose of which is to understand how communication across languages and across cultures takes place in the asylum process in the UK.
- I have read the participant information sheet, or it has been read to me in a language that I understand. I understand the information provided.
- I understand that I may ask for audio recording by the researcher to be stopped at any time, or withdraw from the study without penalty of any kind.
- I have been informed that all audio recordings made and documents collected will be kept private and secure, and that I will not be identified in any report or other publication resulting from this research.
- I have been informed that the researcher will answer any questions regarding the study and its procedures. Judith Reynolds, School of Education, Durham University can be contacted via email: [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or telephone: [NUMBER REDACTED].
- I will be provided with a copy of this form for my records.

Any concerns about this study should be addressed to the Ethics Sub-Committee of the School of Education, Durham University via email (Sheena Smith, School of Education, tel. (0191) 334 8403, e-mail: [Sheena.Smith@Durham.ac.uk](mailto:Sheena.Smith@Durham.ac.uk)).

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Date	Participant Name (please print)	Participant Signature
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Participant contact details:

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Tel:	Email:
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*I certify that I have presented the above information to the participant and secured his or her consent.*

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Date	Signature of Researcher
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## **Participant Information Sheet 2**

### **Multilingual and intercultural communication within the UK asylum procedure**

You are invited to take part in a research study of multilingual and intercultural communication within the UK asylum procedure. Please read this form carefully and ask any questions you may have before agreeing to be in the study.

The study is conducted by Ms Judith Reynolds (the researcher) as part of her postgraduate studies at Durham University. This research project is supervised by Dr Prue Holmes (p.m.holmes@durham.ac.uk) from the School of Education at Durham University.

The purpose of this study is to understand how communication across languages and across cultures takes place in the asylum process in the UK. The study looks at communication during interviews between asylum seekers and officials from UK Visas and Immigration (UKVI) and during meetings between asylum seekers and lawyers. It also looks at how researchers carry out research involving different languages.

The study will not have any direct impact on your asylum application. However, it will hopefully lead to suggestions for how to improve communication between asylum seekers and UKVI and lawyers, and training about this for future asylum applicants to the UK, lawyers and UKVI staff. By taking part in the study, you will be helping the researcher to develop this training.

If you agree to be in this study, the researcher will observe and audio record your asylum interview today. You can ask for the recording to be stopped, and for the researcher to leave the room, at any time. The researcher will also, if you agree, take a copy of any documents discussed in the interview. The researcher will also invite you to come to a discussion group to be held in a few months' time, to talk with other asylum seekers about language and communication in the asylum process.

You do not have to take part in the study. UK Visas and Immigration does not expect you to say yes or no, and it will have no effect on your case whether you take part or not. You can decide whether or not to take part. If you decide to take part now but later change your mind, you can withdraw from the study at any time by contacting the researcher without any negative consequences for you.

All audio recordings and documents collected will be kept secure and private (locked up, or stored in password protected computer files). They will only be shared with other persons involved in the research (such as the researcher's supervisors and any transcription and

translation assistant employed by the researcher), who will also keep the information secure and private.

The information collected will be used to produce research and other reports about language and communication in the asylum process. In any report or article that may be published, your name will be changed and no other information will be included that will make it possible to identify you individually.

If you have any questions, requests or concerns regarding this research, please contact the researcher Judith Reynolds via email at [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or by telephone at [NUMBER REDACTED].

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### Declaration of Informed Consent

- I agree to participate in this study, the purpose of which is to understand how communication across languages and across cultures takes place in the asylum process in the UK.
- I have read the participant information sheet, or it has been read to me in a language that I understand. I understand the information provided.
- I understand that I may ask for audio recording by the researcher to be stopped at any time, or withdraw from the study without penalty of any kind.
- I have been informed that all audio recordings made and documents collected will be kept private and secure, and that I will not be identified in any report or other publication resulting from this research.
- I have been informed that the researcher will answer any questions regarding the study and its procedures. Judith Reynolds, School of Education, Durham University can be contacted via email: [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or telephone: [NUMBER REDACTED].
- I will be provided with a copy of this form for my records.

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Date	Participant Name (please print)	Participant Signature
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Participant contact details:

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Tel:	Email:
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*I certify that I have presented the above information to the participant and secured his or her consent.*

### **Participant Information Sheet 3**

#### **Multilingual and intercultural communication within the UK asylum procedure**

You are invited to take part in a research study of multilingual and intercultural communication within the UK asylum procedure. Please read this form carefully and ask any questions you may have before agreeing to be in the study.

The study is conducted by Ms Judith Reynolds (the researcher) as part of her postgraduate studies at Durham University. This research project is supervised by Dr Prue Holmes (p.m.holmes@durham.ac.uk) from the School of Education at Durham University.

The purpose of this study is to understand how communication across languages and across cultures takes place in the asylum process in the UK. The study looks at communication during meetings between asylum applicants and their lawyers, and during interviews between asylum applicants and officials from UK Visas and Immigration (UKVI). It also looks at how researchers carry out research involving different languages.

The study will hopefully lead to suggestions for how to improve communication between asylum seekers and lawyers and UKVI, including about how to work more effectively with interpreters. It is hoped that training about this can be produced for future asylum applicants to the UK, lawyers and UKVI staff to improve working practices. By taking part in the study, you will be helping the researcher to develop this training for the future.

If you agree to be in this study, the researcher will:

- observe and audio record your meeting with your asylum client today (you can ask for the recording to be stopped, and for the researcher to leave the room, at any time)
- if the client agrees, and the lawyer asks for this, give the lawyer a copy of the audio recording of the meeting to help them with preparing the case
- if the client agrees, take a copy of any documents discussed in the meeting and any documents (such as the witness statement) that are created by the lawyer after the meeting
- if you, the lawyer and the client agree, observe and record other meetings that you may have with your client about their case after today during the observation period of the research
- invite you to take part in a one on one interview to be held after the observation period of the research is over, to discuss with her your experience of and opinions

about language and communication in the asylum process.

If you are happy to participate then the researcher would like to ask for your assistance today with communicating the purpose and form of the study to your client, and ascertaining whether or not he or she is happy to participate and freely consents to do so.

Participation is entirely voluntary and (regardless of the position of the other participants) you are free to decide whether or not to participate. If you decide to participate now but later change your mind, you can withdraw from the study at any time by contacting the researcher without any negative consequences for you.

All audio recordings and documents collected will be kept secure and private (locked up, or stored in password protected computer files). They will only be shared with other persons involved in the research (such as the researcher's supervisors and any transcription and translation assistant employed by the researcher who will also keep the information secure and private.

The information collected will be used to produce research and other reports about language and communication in the asylum process. In any report that may be published, your name will be changed and no other information will be included that will make it possible to identify you, or anyone else involved, individually.

If you have any questions, requests or concerns regarding this research, please contact the researcher Judith Reynolds via email at [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or by telephone at [NUMBER REDACTED].

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Durham University is the trading name of the University of Durham

### Declaration of Informed Consent

- I agree to participate in this study, the purpose of which is to understand how communication across languages and across cultures takes place in the asylum process in the UK.
- I have read the participant information sheet, and I understand the information provided.
- I understand that I may decline to answer any questions posed by the researcher, ask for audio recording to be stopped at any time, or withdraw from the study without penalty of any kind.
- I have been informed that all audio recordings made and documents collected will be kept private and secure, and that I will not be identified in any report or other publication resulting from this research.
- I have been informed that the researcher will answer any questions regarding the study and its procedures. Judith Reynolds, School of Education, Durham University can be contacted via email: [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or telephone: [NUMBER REDACTED].
- I will be provided with a copy of this form for my records.

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Date	Participant Name (please print)	Participant Signature
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Participant contact details:

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Tel:	Email:
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*I certify that I have presented the above information to the participant and secured his or her consent.*

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Date	Signature of Researcher
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## **Participant Information Sheet 4**

### **Multilingual and intercultural communication within the UK asylum procedure**

Dear [*name of lawyer*]

We have been in discussions regarding your possible participation in a research study of multilingual and intercultural communication within the UK asylum procedure. The purpose of this Information Sheet is to provide you with some key information about the study. Please read this form carefully and ask any questions you may have before agreeing to participate.

The study is conducted by myself, Ms Judith Reynolds (the researcher) as part of my postgraduate studies at Durham University. This research project is supervised by Dr Prue Holmes (p.m.holmes@durham.ac.uk) from the School of Education at Durham University.

The purpose of the study is to understand how communication across languages and across cultures takes place in the asylum process in the UK. The study looks at communication during meetings between asylum applicants and their lawyers, and communication during asylum interviews with UK Visas and Immigration. It also looks at how researchers carry out research involving different languages.

The study will hopefully lead to suggestions for how to improve communication between asylum seekers and lawyers and asylum seekers and UKVI, and training about this for future asylum applicants to the UK, lawyers and UKVI staff. By taking part in the study, you will be helping the researcher to develop this training for the future.

If you agree to take part in this study, the researcher will attend your offices on a regular basis at pre-agreed times during a mutually agreed observation period of [three] months. During this period, the researcher will attend, observe and audio record meetings between yourself and asylum clients and in respect of which the client and (if applicable) the interpreter have also consented to take part in the study. The researcher will take notes in these meetings and will, with all parties' agreement, take a copy of any documents discussed in the meeting. The researcher will, if they are useful to you and all parties agree, give you a copy of all audio recordings made. If you have a copy of any audio recording of the client's interview at UKVI and you and the client agree, the researcher will take a copy of this also. Following the end of the observation period, the researcher will also invite you to take part in a one on one interview to discuss with her your experience of and opinions about language and communication in the asylum process. This interview will also be audio recorded.

If you are happy to participate then the researcher would also like to ask for your assistance,

and that of the interpreter if applicable, with communicating the purpose and form of the study to your client, and ascertaining whether or not he or she is happy to participate and freely consents to do so.

Participation is entirely voluntary and (regardless of the position of the other participants) you are free to decide whether or not to participate. If you decide to participate now but later change your mind, you can withdraw from the study at any time by contacting the researcher without any negative consequences for you.

All audio recordings and documents collected will be kept secure and private (locked up, or stored in password protected computer files). They will only be shared with other persons involved in the research (such as the researcher's supervisors and any transcription and translation assistant employed by the researcher), who will also keep the information secure and private.

The information collected will be used to produce research and other reports about language and communication in the asylum process. In any report or article that may be published, your name will be changed and no other information will be included that will make it possible to identify you, or anyone else involved, individually.

If you have any questions, requests or concerns regarding this research, please contact the researcher Judith Reynolds via email at [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or by telephone at [NUMBER REDACTED].

Funding for this project comes from the Arts and Humanities Research Council (UK) (grant reference AH/L006936/1). The study has been reviewed and approved by the School of Education Ethics Sub-Committee at Durham University (date of approval: DD/MM/YY).

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### Declaration of Informed Consent

- I agree to participate in this study, the purpose of which is to understand how communication across languages and across cultures takes place in the asylum process in the UK.
- I have read the participant information sheet, and I understand the information provided.
- I understand that I may decline to answer any questions posed by the researcher, ask for audio recording to be stopped at any time, or withdraw from the study without penalty of any kind.
- I have been informed that all audio recordings made and documents collected will be kept private and secure, and that neither I nor any of the other participants will be identified in any report or other publication resulting from this research.
- I have been informed that the researcher will answer any questions regarding the study and its procedures. Judith Reynolds, School of Education, Durham University can be contacted via email: [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or telephone: [NUMBER REDACTED].
- I will be provided with a copy of this form for my records.

Any concerns about this study should be addressed to the Ethics Sub-Committee of the School of Education, Durham University via email (Sheena Smith, School of Education, tel. (0191) 334 8403, e-mail: [Sheena.Smith@Durham.ac.uk](mailto:Sheena.Smith@Durham.ac.uk)).

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Date	Participant Name (please print)	Participant Signature
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Participant contact details:

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Tel:	Email:
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*I certify that I have presented the above information to the participant and secured his or her consent.*

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Date	Signature of Researcher
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## **Participant Information Sheet 5**

### **Multilingual and intercultural communication within the UK asylum procedure**

You are invited to take part in a research study of multilingual and intercultural communication within the UK asylum procedure. Please read this form carefully and ask any questions you may have before agreeing to be in the study.

The study is conducted by Ms Judith Reynolds (the researcher) as part of her postgraduate studies at Durham University. This research project is supervised by Dr Prue Holmes (p.m.holmes@durham.ac.uk) from the School of Education at Durham University.

The purpose of this study is to understand how communication across languages and across cultures takes place in the asylum process in the UK. The study looks at communication during interviews between asylum applicants and officials from UK Visas and Immigration (UKVI), and meetings between asylum seekers and lawyers. It also looks at how researchers carry out research involving different languages.

The study will not have any direct impact on UKVI's work at present. However it will hopefully lead to increased general understanding of the complexities of communication within the asylum process, suggestions for how to improve communication between asylum seekers and UKVI, and training about this for UKVI staff and future asylum applicants to the UK. By taking part in the study, you will be helping the researcher to develop this training for the future.

If you agree to be in this study, and the asylum applicant and [interpreter/UKVI interviewer] also choose to participate, the researcher will observe and audio record the asylum interview taking place today. You can ask for the recording to be stopped, and for the researcher to leave the room, at any time. You agree to provide the researcher with a copy of any documents discussed in the meeting, if the asylum applicant permits this. The researcher will also invite you to take part in a one on one interview to be held after the observation period of the research is over, to discuss with her your experience of and opinions about language and communication in the asylum process.

If you are happy to participate then the researcher would like to ask for your assistance today with communicating the purpose and form of the study to the asylum applicant, and ascertaining whether or not he or she is happy to participate and freely consents to do so.

Participation is entirely voluntary and (regardless of the position of the other participants) you are free to decide whether or not to participate. If you decide to participate now but

later change your mind, you can withdraw from the study at any time by contacting the researcher without any negative consequences for you.

All audio recordings and documents collected will be kept secure and private (locked up, or stored in password protected computer files). They will only be shared with other persons involved in the research (such as the researcher's supervisors and any transcription and translation assistant employed by the researcher who will also keep the information secure and private).

The information collected will be used to produce research and other reports about language and communication in the asylum process. In any report or article that may be published, your name will be changed and no other information will be included that will make it possible to identify you, or anyone else involved, individually.

If you have any questions, requests or concerns regarding this research, please contact the researcher Judith Reynolds via email at [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or by telephone at [NUMBER REDACTED].

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### Declaration of Informed Consent

- I agree to participate in this study, the purpose of which is to understand how communication across languages and across cultures takes place in the asylum process in the UK.
- I have read the participant information sheet, and I understand the information provided.
- I understand that I may decline to answer any questions posed by the researcher, ask for audio recording to be stopped at any time, or withdraw from the study without penalty of any kind.
- I have been informed that all audio recordings made and documents collected will be kept private and secure, and that I will not be identified in any report or other publication resulting from this research.
- I have been informed that the researcher will answer any questions regarding the study and its procedures. Judith Reynolds, School of Education, Durham University can be contacted via email: [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) or telephone: [NUMBER REDACTED].
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Date	Participant Name (please print)	Participant Signature
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Participant contact details:

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Tel:	Email:
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*I certify that I have presented the above information to the participant and secured his or her consent.*

Date

Signature of Researcher

### Interview Schedule – DRAFT

**Title:** Multilingual and intercultural communication within the UK asylum procedure: a study of asylum applicants' interactions with institutions and the law

#### A. Interviews with asylum lawyers

1. Name
2. Number of years' professional experience as an asylum lawyer
3. Languages spoken and level
4. Reasons/motivation for practising as an asylum lawyer
5. Any training received (formal or informal) in communicating with asylum clients and/or working with interpreters?
6. Are you aware of any such training being available?
7. Experiences of communication with asylum clients
  - a. Are they good, bad, difficult, unproblematic?
  - b. Any particular examples?
  - c. Specific questions arising from the lawyer/client meetings observed and recorded by the researcher
8. Experiences of communication involving interpreters
  - a. Are they good, bad, difficult, unproblematic?
  - b. Any particular examples?
  - c. Specific questions arising from the lawyer/client meetings observed and recorded by the researcher
9. What sort of factors have an impact on your communication with your client (eg time available for meetings, language requirements, funding, physical meeting space, ethical guidelines, other)?
10. How well do you feel that you have understood your clients' stories?
11. Do you modify your communication style in any way when talking with or writing to asylum clients? If so, how?
12. Do you notice asylum clients adopting any particular strategies in order to communicate better with you?
13. How do you deal with communication difficulties arising with your asylum clients?



14. How much do you communicate with your asylum clients in writing? Are you aware of any issues with this mode of communication?
15. Do you feel there are any differences in ease of communication depending on the background of the particular client?
16. During the meetings which the researcher observed and recorded, how did you feel about the observation and recording? Were you aware of changing your usual communication style because of the presence of the researcher and/or the recording being made? If so, in what ways did you change your usual style?
17. How much do you take notes or work with documentation during your meetings? How does this impact on the communication with your client?
18. If your client's case is going to appeal and he or she has to attend a Tribunal hearing, do you brief or advise them in advance about the communication style used in the Tribunal? If so, how?

## **B. Interviews with interpreters**

1. Name
2. Number of years' professional experience as an interpreter in asylum contexts
3. Basis of employment (eg self-employed, agency work – including basis of remuneration)
4. Languages spoken and level
5. Interpreting training and qualifications
6. Reasons/motivation for practising as an interpreter in asylum contexts
7. What proportion of your interpreting work is asylum related interpreting?
8. Where do you carry out your asylum interpreting assignments? Eg law firms; Immigration Tribunal; UKVI offices; other locations (please specify)
9. Experiences of communication involving asylum clients and lawyers
  - a. Are they good, bad, difficult, unproblematic?
  - b. Any particular examples?
  - c. Specific questions arising from the lawyer/client meetings observed and recorded by the researcher
10. Experiences of communication involving asylum clients and UKVI officials
  - a. Are they good, bad, difficult, unproblematic?
  - b. Any particular examples?
  - c. Specific questions arising from the UKVI/applicant meetings observed and recorded by the researcher
11. What sort of factors have an impact on your work (eg time available for meetings, language requirements, funding, physical meeting space, ethical guidelines, other)?

19. Do you modify your communication style in any way when talking with different participants in the interaction? If so, how?
20. Do you make use of notes when working? If so, in what way(s)?
21. Do you notice asylum clients, lawyers or UKVI officials adopting any particular strategies in order to communicate better with you or with each other?
22. How do you deal with communication difficulties arising in asylum related interactions?
23. Do you find that there are any differences in ease of communication depending on the background of the particular client?
24. During the meetings which the researcher observed and recorded, how did you feel about the observation and recording? Were you aware of changing your usual communication style because of the presence of the researcher and/or the recording being made? If so, in what ways did you change your usual style?

### **C. Interviews with UKVI officials**

1. Name
2. Number of years' professional experience working for UKVI, and number of years as an officer conducting asylum interviews. Any previous roles in UKVI?
3. Languages spoken and level
4. Reasons/motivation for working at UKVI
5. Any training received (formal or informal) in communicating with asylum applicants and/or working with interpreters?
6. Are you aware of any such training being available to UKVI staff?
7. Experiences of communication with asylum applicants
  - a. Are they good, bad, difficult, unproblematic?
  - b. Any particular examples?
  - c. Specific questions arising from the lawyer/client meetings observed and recorded by the researcher
8. Experiences of communication involving interpreters
  - a. Are they good, bad, difficult, unproblematic?
  - b. Any particular examples?
  - c. Specific questions arising from the lawyer/client meetings observed and recorded by the researcher
9. What sort of factors have an impact on your communication with asylum applicants during their interviews (eg time available, language requirements, physical meeting space, nerves or emotional upset, other)?
10. How well do you feel that you have understood applicants' stories after interviews are complete?

11. How do you find taking notes to record the interviews impacts on your communication with applicants during interviews?
12. Do you modify your communication style in any way when talking with or writing to asylum applicants? Either through interpreters or directly? If so, how?
13. Do you notice asylum applicants, or interpreters, adopting any particular strategies in order to communicate better with you?
14. How do you deal with communication difficulties arising with asylum applicants?
15. Do you communicate with asylum applicants in writing? Are you aware of any issues with this mode of communication?
16. Do you feel there are any differences in ease of communication depending on the background of the particular applicant?
17. During the meetings which the researcher observed and recorded, how did you feel about the observation and recording? Were you aware of changing your usual communication style because of the presence of the researcher and/or the recording being made? If so, in what ways did you change your usual style?

#### **D. Focus group sessions with asylum applicants**

\* consider gathering the information marked with an asterisk via a written form from each participant individually before or after the focus group session.

1. Name \*
2. Country of origin \*
3. Length of time since arriving in the UK \*
4. Length of time since you left your home country, and other countries travelled through or where you have spent time \*
5. Languages spoken and level \*
6. Job or occupation in your home country \*
7. Experiences of communication with UKVI staff
  - a. How did you feel about the UKVI staff?
  - b. How did you communicate with UKVI staff? (eg speech & what language; use of interpreters; gesture; eye contact; other non verbal communication; use of writing)
  - c. Was communication good, bad, difficult, unproblematic?
  - d. Any particular examples?
  - e. Do you feel that your story was fully understood and properly represented by the staff at UKVI whom you were interviewed by? If not, why not?
  - f. [Questions arising from the applicant/UKVI meetings observed and recorded by the researcher]
  - g. Did you change the way you speak or behave when you were communicating with UKVI staff? If so, how?

- h. What kind of things affected your communication with UKVI staff during your interview (eg time available, language requirements, physical meeting space, nerves or emotional upset, tiredness or hunger, presence of other people, other)?
  - i. Did you receive any communication in writing from UKVI? Was this easy to understand?
8. Experiences of communication with lawyers
- a. How did you feel about your lawyer?
  - b. How do you communicate with your lawyer? (eg speech & what language; use of interpreters; gesture; eye contact; other non verbal communication; use of writing)
  - c. Is communication good, bad, difficult, unproblematic?
  - d. Any particular examples?
  - e. Do you feel that your story was fully understood and properly represented by your lawyer? If not, why not?
  - f. Questions arising from the lawyer/client meetings observed and recorded by the researcher
  - g. Do you change the way you speak or behave when you are communicating with your lawyer? If so, how?
  - h. What kind of things affected your communication with your lawyer during your meetings (eg time available, language requirements, physical meeting space, nerves or emotional upset, tiredness or hunger, presence of other people, other)?
  - i. Have you received any communication in writing from your lawyer? Was this easy to understand?
9. Experiences of communication involving interpreters
- a. Have you had the same interpreter at different stages of your asylum process, or different interpreters? How many different ones?
  - b. How did you feel about the interpreter?
  - c. How did you work with the interpreter to try and make yourself understood?
  - d. Was it easy or difficult to communicate through the interpreter?
  - e. Any particular examples?
  - f. Questions arising from the meetings or interviews observed and recorded by the researcher
  - g. Did you have any difficulties with communicating through an interpreter? If so, what were these?
10. When you communicated with your lawyers or with UKVI, did you ever feel that anything was misunderstood by the other person because they did not know about or understand [life in/the situation in] your home country? If so, can you give an example? How did you or the other person deal with this?

27 August 2015

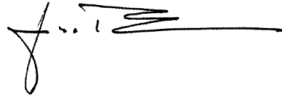
Judith Reynolds  
PhD Education

[j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk)

Dear Judith

**Multilingual and intercultural communication within the UK asylum procedure: a study of asylum applicants' interactions with institutions and the law**

I am pleased to inform you that your application for ethical approval for the above research has been approved by the School of Education Ethics Committee. May we take this opportunity to wish you good luck with your research.



Dr. J. Beckmann  
Chair of School of Education Ethics Committee



- الحصول على نسخة من التسجيل الصوتي لمقابلتك مع إدارة التأشيرات والهجرة البريطانية بشأن اللجوء إذا كان لدى المحامي الخاص بك ذلك التسجيل الصوتي، [بعد أخذ بشرط](#) موافقتك وموافقة محاميك على ذلك
- مراقبة [وتسجيل] الاجتماعات الأخرى بشأن حالتك والتي قد تتم بينك وبين المحامي الخاص بك بعد تاريخ اليوم بشرط الترتيب المسبق وموافقتك وموافقة محاميك على ذلك
- الاتصال بك لدعوتك للحضور إلى مجموعة نقاشية تعقد في غضون أشهر قليلة، للحديث مع [الباحثة](#) و [طالبي اللجوء](#) الآخرين [والباحثة](#) عن اللغة والتواصل في عملية اللجوء.

لست مضطراً إلى المشاركة في هذه الدراسة. ولا يتوقع محاميك أن توافق أو ترفض، ولن يكون لعدم مشاركتك أي أثر على [حالة طلبك](#)

يمكنك أن تقرر ما إذا كنت تريد المشاركة من عدمه. إذا قررت المشاركة الآن ثم غيرت رأيك لاحقاً، فيمكنك الانسحاب من الدراسة في أي وقت عن طريق الاتصال بالباحثة دون أن يكون لذلك أي عواقب سلبية عليك.

يتم حفظ كافة المذكرات [التسجيلات الصوتية] التي سجلت والمستندات التي تم جمعها في مكان آمن وخاص (محفوظة أو مخزنة في ملفات حاسوب محمية بكلمة سر)، ولن يتم مشاركتها إلا مع الأشخاص المشاركين في البحث (مثل مشرفي الباحثة وأي مساعد تستعين به الباحثة)، الذين يحرصون أيضاً على سرية وخصوصية المعلومات.

سيتم استخدام المعلومات التي تم جمعها لإنتاج البحث وتقارير أخرى حول اللغة والتواصل المستخدم في عملية اللجوء. سيتم استبدال الـ **تغيير** اسمك باسم مستعار في أي تقرير أو مقال ينشر، ولن تشمل تلك التقارير أو المقالات على أية معلومات أخرى من شأنها أن تجعل التعرف عليك شخصياً أمراً ممكناً.

إذا كان لديك أي أسئلة أو طلبات أو استفسارات بشأن هذا البحث، يرجى الاتصال بالباحثة جوديث رينولدز عبر البريد الإلكتروني [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) أو عن طريق الهاتف رقم [NUMBER REDACTED].

يمول هذا المشروع مجلس أبحاث الآداب والعلوم الإنسانية (المملكة المتحدة) (الرقم المرجعي للمنحة AH/L006936/1). تمت مراجعة الدراسة واعتمادها من قبل اللجنة الفرعية للأخلاقيات بكلية التربية بجامعة درهام (تاريخ الاعتماد: 2015/8/27)

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طريق ليزيس  
مدينة درهام، DH1 1TA  
الهاتف: 2000 191 334 (0) 44+ الفاكس: 8311 191 334 (0) 44+  
[www.durham.ac.uk](http://www.durham.ac.uk)  
درهام يونفرسيتي هي الاسم التجاري لجامعة درهام



#### إقرار بالموافقة المستنيرة

يرجى التأكد من موافقتك على كل من الإقرارات التالية:

- أوافق على المشاركة في هذه الدراسة التي تستهدف فهم كيفية التواصل اللغوي والثقافي المستخدم في عملية اللجوء في المملكة المتحدة.
- لقد قرأت صحيفة بيانات المشارك، أو تمت قراءتها لي بلغة أفهمها. وإنني أعني المعلومات الواردة فيها.
- أدرك أنه من حقي مطالبة الباحثة بوقف الملاحظة [أو التسجيل الصوتي] في أي وقت، والانسحاب من الدراسة دون أن يترتب على ذلك أي عقوبة من أي نوع.
- تم إبلاغي بأن كل المذكرات [التسجيلات الصوتية] التي سجلت والمستندات التي تم جمعها ستظل في مكان خاص وآمن، وبأنه لم يتم الكشف عن هويتي في أي تقرير أو غيره من المطبوعات الناتجة عن هذا البحث.
- أبلغت أن الباحثة سوف تجيب عن أي تساؤلات بخصوص الدراسة وإجراءاتها. يمكن الاتصال بجوديث رينولدز، كلية التربية، جامعة درهام عبر البريد الإلكتروني: [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) ، أو عبر الهاتف رقم: [NUMBER REDACTED]
- سوف أحصل على نسخة من هذا النموذج لحفظه ضمن سجلاتي.

يتم إبلاغ أية مخاوف بشأن هذه الدراسة إلى اللجنة الفرعية للأخلاقيات بكلية التربية، جامعة درهام عبر البريد الإلكتروني (شينيا سميث، كلية التربية، الهاتف رقم: 334 8403 (0191)، [Sheena.Smith@Durham.ac.uk](mailto:Sheena.Smith@Durham.ac.uk)).

### صحيفة بيانات المشارك 1.1

#### التواصل متعدد اللغات والثقافات المستخدم في إجراءات اللجوء في المملكة المتحدة

أنت مدعو للمشاركة في دراسة بحثية حول التواصل متعدد اللغات والثقافات المستخدم في إجراءات اللجوء في المملكة المتحدة. يرجى قراءة هذا النموذج بعناية وطرح أي أسئلة قد تكون لديكم قبل الموافقة على المشاركة في الدراسة.

تجري الأنسة جوديث رينولدز (الباحثة) الدراسة كجزء من دراساتها العليا في جامعة درهام. ويشرف على هذا المشروع البحثي الدكتور برو هولمز (p.m.holmes@durham.ac.uk) من كلية التربية بجامعة درهام.

تستهدف هذه الدراسة فهم كيفية التواصل اللغوي والثقافي الذي يستخدم في التعامل مع اللجوء في المملكة المتحدة. وتتناول الدراسة التواصل الذي يتم خلال اللقاءات بين طالبي اللجوء ومحاميهم، بالإضافة إلى التواصل الذي يتم خلال مقابلات اللجوء مع إدارة التأشيرات والهجرة في المملكة المتحدة (وزارة الداخلية البريطانية). كما تتناول أيضًا طريقة إجراء الباحثين لدراساتهم البحثية التي تنطوي على لغات مختلفة.

لن يكون للدراسة أي أثر مباشر على حالة طلبك وإنما نأمل أن تؤدي هذه الدراسة إلى اقتراحات وحلول حول كيفية تحسين التواصل بين طالبي اللجوء والمحامين ووزارة الداخلية، وكذلك تدريب المحامين وموظفي وزارة الداخلية في المستقبل للتعامل مع طالبي اللجوء إلى المملكة المتحدة. وبمشاركتك في الدراسة، سوف تساعد الباحثة في تطوير وإعداد هذا التدريب.

إذا وافقت على المشاركة في هذه الدراسة، ستقوم الباحثة بما يلي:

- مراقبة، [القيام بتسجيل صوتي] وتدوين مذكرات في اجتماعك مع المحامي الخاص بك منذ اليوم (يمكنك أن تطلب من الباحثة مغادرة الغرفة في أي وقت [ووقف التسجيل في أي وقت])
  - [منح محاميك نسخة من التسجيل الصوتي للاجتماع إذا وافقت وطلب محاميك ذلك بهدف مساعدة المحامي في إعداد طلبك]
  - الحصول على نسخة من أي وثائق تمت مناقشتها في الاجتماع وأي مستندات أعدها المحامي الخاص بك بعد الاجتماع بشرط موافقتك وموافقة محاميك
  - الحصول على نسخة من التسجيل الصوتي لمقابلتك مع إدارة التأشيرات والهجرة البريطانية بشأن اللجوء إذا كان لدى المحامي الخاص بك ذلك التسجيل الصوتي، بعد أخذ موافقتك وموافقة محاميك على ذلك
  - مراقبة [وتسجيل] الاجتماعات الأخرى بشأن حالتك والتي قد تتم بينك وبين المحامي الخاص بك بعد تاريخ اليوم بشرط الترتيب المسبق وموافقتك وموافقة محاميك على ذلك
  - الاتصال بك لدعوتك للحضور إلى مجموعة نقاشية تعقد في غضون أشهر قليلة، للحديث مع الباحثة و طالبي اللجوء الآخرين عن اللغة والتواصل في عملية اللجوء.
- لست مضطراً إلى المشاركة في هذه الدراسة. ولا يتوقع محاميك أن توافق أو ترفض، ولن يكون لعدم مشاركتك أي أثر على حالة طلبك.

يمكنك أن تقرر ما إذا كنت تريد المشاركة من عدمه. إذا قررت المشاركة الآن ثم غيرت رأيك لاحقًا، فيمكنك الانسحاب من الدراسة في أي وقت عن طريق الاتصال بالباحثة دون أن يكون لذلك أي عواقب سلبية عليك.

يتم حفظ كافة المذكرات [التسجيلات الصوتية] التي سجلت والمستندات التي تم جمعها في مكان آمن وخاص (محفظة أو مخزنة في ملفات حاسوب محمية بكلمة سر)، ولن يتم مشاركتها إلا مع الأشخاص المشاركين في البحث (مثل مشرفي الباحثة وأي مساعد تستعين به الباحثة)، الذين يحرصون أيضًا على سرية وخصوصية المعلومات.

سيتم استخدام المعلومات التي تم جمعها لإنتاج البحث وتقارير أخرى حول اللغة والتواصل المستخدم في عملية اللجوء. سيتم استبدال اسمك باسم مستعار في أي تقرير أو مقال ينشر، ولن تشتمل تلك التقارير أو المقالات على أية معلومات أخرى من شأنها أن تجعل التعرف عليك شخصيًا أمرًا ممكنًا.

إذا كان لديك أي أسئلة أو طلبات أو استفسارات بشأن هذا البحث، يرجى الاتصال بالباحثة جوديث رينولدز عبر البريد الإلكتروني [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) أو عن طريق الهاتف رقم [NUMBER REDACTED].

يمول هذا المشروع مجلس أبحاث الآداب والعلوم الإنسانية (المملكة المتحدة) (الرقم المرجعي للمنحة AH/L006936/1). تمت مراجعة الدراسة واعتمادها من قبل اللجنة الفرعية للأخلاقيات بكلية التربية بجامعة درهام (تاريخ الاعتماد: 2015/8/27)

شكرًا لكم!  
جوديث رينولدز

#### إقرار بالموافقة المستتيرة

يرجى التأكد من موافقتك على كل من الإقرارات التالية:

- أوافق على المشاركة في هذه الدراسة التي تستهدف فهم كيفية التواصل اللغوي والثقافي المستخدم في عملية اللجوء في المملكة المتحدة.
- لقد قرأت صحيفة بيانات المشارك، أو تمت قراءتها لي بلغة أفهمها. وإنني أعني المعلومات الواردة فيها.
- أدرك أنه من حقي مطالبة الباحثة بوقف الملاحظة [أو التسجيل الصوتي] في أي وقت، والانسحاب من الدراسة دون أن يترتب على ذلك أي عقوبة من أي نوع.
- تم إبلاغي بأن كل المذكرات [التسجيلات الصوتية] التي سجلت والمستندات التي تم جمعها ستظل في مكان خاص وآمن، وبأنه لم يتم الكشف عن هويتي في أي تقرير أو غيره من المطبوعات الناتجة عن هذا البحث.
- أبلغت أن الباحثة سوف تجيب عن أي تساؤلات بخصوص الدراسة وإجراءاتها. يمكن الاتصال بجوديث رينولدز، كلية التربية، جامعة درهام عبر البريد الإلكتروني: [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) ، أو عبر الهاتف رقم [NUMBER REDACTED]
- سوف أحصل على نسخة من هذا النموذج لحفظه ضمن سجلاتي.

يتم إبلاغ أية مخاوف بشأن هذه الدراسة إلى اللجنة الفرعية للأخلاقيات بكلية التربية، جامعة درهام عبر البريد الإلكتروني (شينيا سميث، كلية التربية، الهاتف رقم: 334 8403 (0191)، [Sheena.Smith@Durham.ac.uk](mailto:Sheena.Smith@Durham.ac.uk)).

## برگه اطلاعات شرکت‌کنندگان 1.1

طرق ارتباط میان چند زبان و فرهنگ در پروژه پناهجویی در بریتانیا بدین‌وسیله از شما دعوت می‌شود در این تحقیق که در زمینه طرق ارتباط میان چند زبان و فرهنگ در پروژه پناهاندگی در بریتانیا انجام می‌شود شرکت نمایند. لطفاً این فرم را با دقت مطالعه کرده‌چیل از توافق برای اشتراک در این تحقیق با دقت مطالعه نمایند و هرگونه سئوالی که ممکن است برای شما پیش بیاید را بپرسید.

این مطالعه توسط خانم جودیت رینولدز (محقق) جهت انجام پایان نامه دکتر+دوکتورای وی در دانشگاه دورهام انجام می‌گیرد. دکتر پرو هولمز (p.m.holmes@durham.ac.uk) از دانشکده آموزش، دانشگاه دورهام کار نظری روی این پروژه را به عهده دارد.

هدف این مطالعه درک چگونگی ارتباط بین زبان‌ها و بین فرهنگ‌ها در پروژه پناهاندگی در بریتانیا می‌باشد. این تحقیق طرز ارتباطات میان پناهجویان و وکلای آنان، و طرز ارتباط دفتر مرکزی پناهجویی بریتانیا با پناهجویان را در جریان مصاحبه‌های پناهجویی بررسی می‌کند. این تحقیق همچنین مطالعه همچنان چگونگی +تجارتش تحقیق جریالی زبان‌های مختلف را که توسط محققین دیگر صورت گرفته است مورد بررسی قرار می‌دهد.

این مطالعه هیچ تأثیر مستقیمی روی پرونده شما نخواهد داشت. ولی، امید است که در پایان پیشنهاداتی برای بهبود ارتباطات بین پناهجویان، وکلایشان و همچنین دفتر مرکزی صورت بگیرد. برعلاوه (UKVI) از طریق این تحقیق پیشنهادهایی برای بهبودی تدریس یا ترین اشخاص ذیربط که در پروژه پناهجویی دخیل است صورت می‌گیرد. با شرکت در این مطالعه، به محققین در ایجاد و توسعه این برنامه کمک می‌کنید.

اگر با شرکت در این مطالعه موافق هستید:

- محقق جلسه ملاقات امروز شما با وکیلان را مشاهده، ثبت (ضبط صدا) و یادداشت‌برداری خواهد کرد ( شما می‌توانید در هر لحظه از جریان مصاحبه، از محقق درخواست کنید که اتاق را ترک کند (و در هر لحظه به میل شما که بخواهید ضبط صدا را متوقف کند))
- محقق می‌تواند (در صورت توافق شما، و در صورتی که وکیلان بخواهد، یک کپی از صدای ضبط‌شده ملاقات را برای کمک به آماده‌سازی پرونده شما به وکیلان بدهد)
- اگر شما و وکیلان موافق هستید، محقق می‌تواند یک کپی از هر مدرکی که در ملاقات‌های شما با وکیلان مطرح می‌شود و یا بعد از ملاقات‌هایتان توسط وکیلان آماده می‌شود یک کپی بگیرد.
- در صورت توافق شما و وکیلان محقق می‌تواند یک کپی صوتی مصاحبه شما با UKVI را بگیرد.
- اگر شما و وکیلان موافق هستید، محقق می‌تواند ملاقات‌های دیگر شما دیگری شما با وکیلان را در آینده مشاهده (و ضبط صدا) کند. محقق می‌تواند با شما تماس گرفته و از شما دعوت کند تا در گروه‌های بحثی که تا چند ماه دیگر برگزار می‌شود شرکت کرده با سایر پناهجویان دیگر و محقق درباره زبان و طرز ارتباط در پروژه پناهجویی صحبت کنید

شما مجبور نیستید در این مطالعه شرکت کنید. وکیلان انتظار ندارد شما بله یا خیر بگویید و شرکت نکردن در آن هیچ تأثیری روی پرونده شما نمی‌گذارد.

می‌توانید درباره شرکت کردن یا نکردن تصمیم بگیرید. اگر اکنون تصمیم به شرکت بگیرید اما بعداً نظرتان را عوض کنید، می‌توانید در هر زمان و بدون هیچ پیامد منفی از تحقیق خارج شوید.

تمام (صداهای ضبط شده و) یادداشت‌ها و مدارک جمع‌آوری شده به صورت ایمن و خصوصی (به صورت قفل‌شده، یا ذخیره‌شده در فایل‌های رایانه‌ای (کمپیوتری) با پسورد) نگهداری خواهد شد. این مدارک تنها در اختیار افراد قرار می‌گیرد که در تحقیق شرکت دارند (مثل ناظرین تحقیق و دستیارانی که در استخدام محقق هستند)، اشخاص ذکر شده اطلاعات شما را به صورت ایمن و خصوصی نگه می‌دارند.

از اطلاعات به‌دست‌آمده برای ایجاد تحقیق و گزارش‌های دیگری درباره زبان و طرق ارتباط در پروسه پناجویی استفاده خواهد شد. در هر گزارش یا مقاله‌ای که ممکن است به چاپ برسد، نام شما تغییر داده خواهد شد و هیچ اطلاعات دیگری که امکان تشخیص هویت شما را فراهم کند ارائه نخواهد شد.

اگر سؤال، درخواست یا نگرانی درباره این تحقیق دارید، لطفاً با محقق جودیت رینولدز از طریق ایمیل [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) یا با شماره تلفن [NUMBER REDACTED] تماس بگیرید.

هزینه‌های انجام این پروژه توسط شورای تحقیق انسانی و هنری (بریتانیا) (شماره ارجاع پژوهانه AH/I006936/1) تأمین‌شده است. این مطالعه به‌وسیله کمیته فرعی اخلاقی دانشکده آموزش، دانشگاه دورهام بررسی و تأییدشده است (تاریخ تأیید: 2015/08/27)

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تسا ماهرود

لطفاً هر یک از گزینه‌های زیر را خوانده و بعد با آن توافق کنید:

- من موافق هستم در این مطالعه، که هدفش درک چگونگی طرق ارتباط بین زبان‌ها و فرهنگ‌ها در پروسه پناهندگی در بریتانیا است، شرکت کنم.
- برگره اطلاعات شرکت‌کنندگان را مطالعه کرده‌ام، یا به زبانی که می‌دانم برایم خوانده شده است. اطلاعات فراهم‌شده را می‌فهمم/فهمیده‌ام.
- من آگاهی دارم که در هر وقت خواسته باشم می‌توانم محقق را از نظارت و (ضبط صدا) متوقف کرده/می‌توانم باز دارم و بدون هیچگونه جریمه از این مطالعه خارج شده/می‌توانم بشوم.
- به من اطلاع داده شده است که تمام (صداها/ضبط‌شده و) یادداشت‌ها و مدارک جمع‌آوری شده به صورت ایمن و شخصی نگهداری خواهد شد، و هویت من در هیچ‌یک از گزارش‌ها و موارد منتشر شده دیگر در نتیجه این مطالعه مشخص نخواهد شد.
- به من اطلاع داده شده است که محقق به هر سؤالی که من در رابطه با این مطالعه و روش آن داشتم پاسخ خواهد داد. می‌توانم از طریق ایمیل [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) یا شماره تلفن: [NUMBER REDACTED] با جودیت رینولدز، دانشکده آموزش، دانشگاه دورهام تماس بگیرم.
- یک کپی از این فرم برای پرونده من در اختیارم قرار خواهد گرفت.

هرگونه نگرانی در مورد این تحقیق باید با کمیته فرعی اخلاقی دانشکده آموزش، دانشگاه دورهام (شینا اسمیت، دانشکده آموزش، تلفن: 0191-3348403، ایمیل آدرس: Sheena.Smith@Durham.ac.uk) راجع شود.

## برگه اطلاعات شرکت‌کنندگان 1.1

طرق ارتباط میان چند زبان و فرهنگ در پروسه پناهجویی در بریتانیا

بدین‌وسیله از شما دعوت می‌شود در این تحقیق که در زمینه طرق ارتباط میان چند زبان و فرهنگ در پروسه پناهندگی در بریتانیا انجام می‌شود شرکت نمایید. لطفاً این فرم را قبل از اشتراک در این تحقیق با دقت مطالعه نمایید و هرگونه سئوالی که ممکن است برای شما پیش بیاید را بپرسید.

این مطالعه توسط خانم جودیت رینولدز (محقق) جهت انجام پایان نامه دکتورای وی در دانشگاه دورهام انجام می‌گیرد. دکتر پرو هولمز (p.m.holmes@durham.ac.uk) از دانشکده آموزش، دانشگاه دورهام کار نظری روی این پروژه را به عهده دارد.

هدف این مطالعه درک چگونگی ارتباط بین زبان‌ها و بین فرهنگ‌ها در پروسه پناهندگی در بریتانیا می‌باشد. این تحقیق طرز ارتباطات میان پناهجویان و وکلای آنان، و طرز ارتباط دفتر مرکزی پناهجویی بریتانیا با پناهجویان را در جریان مصاحبه‌های پناهجویی بررسی می‌کند. این مطالعه همچنان چگونگی روش تحقیق در زبان‌های مختلف را که توسط محققین دیگر صورت گرفته است مورد بررسی قرار می‌دهد.

این مطالعه هیچ تأثیر مستقیمی روی پرونده شما نخواهد داشت. ولی، امید است که در پایان پیشنهاداتی برای بهبود ارتباطات بین پناهجویان، وکلایشان و دفتر مرکزی صورت بگیرد. برعلاوه از طریق این تحقیق پیشنهادهایی برای بهبود تدریس یا ترین اشخاص زیربط که در پروسه پناهجویی دخیل هستند صورت می‌گیرد. با شرکت در این مطالعه، به محققین در ایجاد و توسعه این برنامه کمک می‌کنید.

اگر با شرکت در این مطالعه موافق هستید:

- محقق جلسه ملاقات امروز شما با وکیلان را مشاهده، ثبت (ضبط صدا) و یادداشت‌برداری خواهد کرد ( شما می‌توانید در هر جریان مصاحبه، از محقق درخواست کنید که اتاق را ترک کند (و در هر لحظه که بخواهید ضبط صدا را متوقف کند) )
- محقق می‌تواند (در صورت توافق شما، و در صورتی که وکیلان بخواهد، یک کپی از صدای ضبط‌شده ملاقات را برای کمک به آماده‌سازی پرونده شما به وکیلان بدهد)
- اگر شما و وکیلان موافق هستید، محقق می‌تواند یک کپی از هر مدرکی که در ملاقات‌های شما با وکیلان مطرح می‌شود و با بعد از ملاقات‌هایتان توسط وکیلان آماده می‌شود بگیرد.
- در صورت توافق شما و وکیلان محقق می‌تواند یک کپی صوتی مصاحبه شما با UKVI را بگیرد.
- اگر شما و وکیلان موافق هستید، محقق می‌تواند ملاقات‌های دیگری شما با وکیلان را در آینده مشاهده (و ضبط صدا) کند.
- محقق می‌تواند با شما تماس گرفته و از شما دعوت کند تا در گروه‌های بحثی که تا چند ماه دیگر برگزار می‌شود شرکت کرده با سایر پناهجویان دیگر و محقق درباره زبان و طرز ارتباط در پروسه پناهجویی صحبت کنید.



شما مجبور نیستید در این مطالعه شرکت کنید. وکیلان انتظار ندارد شما بله یا خیر بگویید و شرکت نکردن در آن هیچ تأثیری روی پرونده شما نمی‌گذارد.

می‌توانید درباره شرکت کردن یا نکردن تصمیم بگیرید. اگر اکنون تصمیم به شرکت بگیرید اما بعداً نظرتان را عوض کنید، می‌توانید در هر زمان و بدون هیچ پیامد منفی از تحقیق خارج شوید.

تمام (صداها ضبط شده و) یادداشت‌ها و مدارک جمع‌آوری شده به صورت ایمن و خصوصی (به صورت قفل‌شده، یا ذخیره‌شده در فایل‌های رایانه‌ای (کمپیوتری) با پسورد) نگهداری خواهد شد. این مدارک تنها در اختیار افراد قرار می‌گیرد که در تحقیق شرکت دارند (مثل ناظرین تحقیق و دستیارانی که در استخدام محقق هستند)، اشخاص ذکر شده اطلاعات شما را به صورت ایمن و خصوصی نگه می‌دارند.

از اطلاعات به‌دست‌آمده برای ایجاد تحقیق و گزارش‌های دیگری درباره زبان و طرق ارتباط در پروسه پناجویی استفاده خواهد شد. در هر گزارش یا مقاله‌ای که ممکن است به چاپ برسد، نام شما تغییر داده خواهد شد و هیچ اطلاعات دیگری که امکان تشخیص هویت شما را فراهم کند ارائه نخواهد شد.

اگر سؤال، درخواست یا نگرانی درباره این تحقیق دارید، لطفاً با محقق جودیت رینولدز از طریق ایمیل [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) یا با شماره تلفن [NUMBER REDACTED] تماس بگیرید.

هزینه‌های انجام این پروژه توسط شورای تحقیق انسانی و هنری (بریتانیا) (شماره ارجاع پژوهانه AH/L006936/1) تأمین‌شده است. این مطالعه به‌وسیله کمیته فرعی اخلاقی دانشکده آموزش، دانشگاه دورهام بررسی و تأییدشده است (تاریخ تأیید: 2015/08/27)

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تسا ماهرود رهش هاگشناد یتراجت مان ماهرود هاگشناد

#### اعلام رضایت آگاهانه

لطفاً هر یک از گزینه‌های زیر را خوانده با آن توافق کنید:

- من موافق هستم در این مطالعه، که هدفش درک چگونگی طرق ارتباط بین زبان‌ها و فرهنگ‌ها در پروسه پناهندگی در بریتانیا است، شرکت کنم.
  - برگه اطلاعات شرکت‌کنندگان را مطالعه کرده‌ام، یا به زبانی که می‌دانم برایم خوانده شده است. اطلاعات فراهم‌شده را فهمیده‌ام.
  - من آگاهی دارم که در هر وقت خواسته باشم می‌توانم محقق را از نظارت و (ضبط صدا) باز دارم و بدون هیچگونه جریمه از این مطالعه خارج شوم.
  - به من اطلاع داده شده است که تمام (صداهای ضبط‌شده و) یادداشت‌ها و مدارک جمع‌آوری شده به صورت ایمن و شخصی نگهداری خواهد شد، و هویت من در هیچ‌یک از گزارش‌ها و موارد منتشر شده دیگر در نتیجه این مطالعه مشخص نخواهد شد.
  - به من اطلاع داده شده است که محقق به هر سئوالی که من در رابطه با این مطالعه و روش آن داشته باشم پاسخ خواهد داد. می‌توانم از طریق ایمیل [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk) یا شماره تلفن: [NUMBER REDACTED] با جودیت رینولدز، دانشکده آموزش، دانشگاه دورهام تماس بگیرم.
  - یک کپی از این فرم برای پرونده من در اختیارم قرار خواهد گرفت.
- هرگونه نگرانی در مورد این تحقیق باید با کمیته فرعی اخلاقی دانشکده آموزش، دانشگاه دورهام (شینا اسمیت، دانشکده آموزش، تلفن: 0191-3348403، ایمیل آدرس: [Sheena.Smith@Durham.ac.uk](mailto:Sheena.Smith@Durham.ac.uk)) راجع شود.

**Appendix G - Tables of interactional audio data, and interview and other observation data, collected**

<b>Legal advice meeting observations (total = 25; 2 not audio recorded; 23 audio recorded)</b>								
<b>OBS No.</b>	<b>Meeting name (if in thesis data) Type of advice</b>	<b>MONTH AND YEAR</b>	<b>LOCATION</b>	<b>PARTICIPANTS (M=male; F=female) (P=professional interpreter; NP=non-professional interpreter)</b>	<b>NATIONALITY OF CLIENT</b>	<b>LANGUAGES</b>	<b>LENGTH (mins)</b>	<b>COMMENTS</b>
1	Pilot observation asylum advice	Nov 2015	Lawyer C office	4: lawyer (F), client (M), me (F), interpreter (M)	Iranian	Farsi, English	N/A	<i>No audio recording.</i>
2	Meeting 9 asylum advice	Feb 2016	advice service	4: lawyer (F), client (M), me (F), third sector support worker (M)	Iranian	English	68:22	
3	Meeting 10 asylum advice	Feb 2016	advice service	4: lawyer (F), client (F), me (F), third sector support worker (M)	Israeli	English	28:39	
4	Meeting 11 asylum advice	Feb 2016	advice service	3: lawyer (F), client (M), me (F)	Nigerian	English	40:43	
5	Family reunion bureaucracy	Feb 2016	advice service	3: lawyer (F), client (F), me (F)	Iranian	English	40:53	

6	Meeting 1 family reunion advice	Feb 2016	advice service	5: lawyer (F), client (M), me (F), interpreter P (F), third sector support worker (M)	Sudanese	Arabic, English	73:27	
7	Meeting 2 family reunion advice	Feb 2016	advice service	4: lawyer (F), client (M), me (F), interpreter P (F)	Sudanese	Arabic, English	28:06	
8	family reunion bureaucracy	Feb 2016	advice service	5: lawyer (F), client (M), me (F), interpreter NP (M), third sector support worker (M)	Sudanese	Arabic, English	52:01	
9	family reunion bureaucracy	Mar 2016	advice service	4: lawyer (F), client (M), me (F), interpreter NP (M)	Syrian	Arabic, English	72:28	
10	family reunion bureaucracy	Mar 2016	advice service	3: lawyer (F), client (F), me (F)	Somali	English	62:05	
11	family reunion advice	Mar 2016	advice service	4: lawyer (F), client (M), me (F), interpreter NP (M)	Eritraean	Tigrinya, English	33:47	<i>Data not included due to inability to find research assistant to translate and transcribe</i>
12	family reunion advice	Mar 2016	advice service	3: lawyer (F), client (M), me (F). <i>Interpreter NP by phone (M)</i>	Sudanese	Arabic, English	29:02	<i>Data not included due to lack of consent from interpreter</i>
13	Meeting 12 asylum advice	Mar 2016	advice service	3: lawyer (F), client (F), me (F).	Angolan	English	34:13	

14	family reunion advice	Apr 2016	advice service	3: lawyer (F), client (M), me (F). <i>Interpreter NP by phone (M)</i>	Sudanese	Arabic, English	N/A	<i>No audio recording. Data not included due to lack of consent from interpreter</i>
15	Meeting 3 family reunion advice	Apr 2016	advice service	5: lawyer (F), client (M), me (F), interpreter P (F), third sector support worker (M)	Sudanese	Arabic, English	77:40	<i>Taking a witness statement and advice giving</i>
16	Meeting 4 family reunion advice	Apr 2016	advice service	4: lawyer (F), client (M), me (F), interpreter P (F)	Sudanese	Arabic, English	31:43	<i>Checking the witness statement and advice giving</i>
17	Meeting 5 family reunion advice	Apr 2016	advice service	3: lawyer (F), client (M), me (F)	Sudanese	English	19:08	<i>Meeting curtailed and re-arranged with an interpreter.</i>
18	Meeting 13 asylum advice	Apr 2016	advice service	3: lawyer (F), client (F), me (F)	Ghanaian	English	63:14	
19	Meeting 6 family reunion advice	Apr 2016	advice service	3: lawyer (F), client (F), me (F)	Somali	English	29:05	
20	family reunion bureaucracy	Apr 2016	advice service	4: lawyer (F), client (M), me (F), interpreter NP (M)	Sudanese	Arabic, English	62:48	
21	family reunion bureaucracy	Apr 2016	advice service	4: lawyer (F), client (M), me (F), interpreter NP (M)	Sudanese	Arabic, English	57:39	
22	Meeting 7 family reunion advice	May 2016	advice service	5: lawyer (F), client (M), second client (M), me (F),	Somali	English	37:33	

				third sector support worker (M)				
23	Meeting 8 family reunion advice	May 2016	advice service	3: lawyer (F); client (M); me (F)	Eritrean	English	40:20	
24	family reunion bureaucracy	May 2016	advice service	4: lawyer (F); client (M); me (F), third sector support worker (M)	Sudanese	English	68:44	
25	Meeting 14 asylum advice	May 2016	advice service	4: lawyer (F); client (M); interpreter NP (F); me (F)	Chinese	Chinese, English	46:08	

Ethnographic interviews						
No.	INTERVIEWEE	DATE OF INTERVIEW	LOCATION	LANGUAGE	LENGTH (mins)	COMMENTS
Legal representatives						
1	Asylum solicitor A	24/09/2015	Lawyer's office	English	47:08	
2	Asylum solicitor B	23/10/2015	Lawyer's office	English	44:12	<i>Julia in transcripts</i>

3	Asylum solicitor C	29/10/2015	Lawyer's office	English	58:26	
4	OISC caseworker 1	09/12/2015	NGO office	English	64:17	
5	OISC caseworker 2	09/12/2015	NGO office	English	13:07	Time pressures cut interview short
6	OISC trainee caseworker 1 and interpreter B Arabic - English (same as below)	18/12/2015	NGO office	English	35:03	
7	Trainee solicitor D	15/02/2016	Café	English	10:05	Partial audio only (issue with recording device)
8	OISC trainee caseworker 2	19/05/2016	NGO office	English	46:19	
9	Asylum solicitor E	02/06/2016	Skype	English	51:48	
10	Asylum solicitor F	17/06/2016	Café	English	44:09	
11	Asylum solicitor G	11/07/2016	Meeting room	English	56:54	
<b>Interpreters and interpreter trainers</b>						
1	Interpreter trainer	15/10/2015	Interpreting agency office	English	N/A	No audio
2	Interpreter A French - English	09/02/2016	Café	English	48:55	

3	OISC trainee caseworker 1 and interpreter B Arabic - English (same as above)	18/12/2015	NGO office	English	35:03	
4	Interpreter C Kurdish - English (also Arabic, Farsi)	31/03/2016	NGO office	English	N/A	No audio
5	Interpreter D Arabic - English	25/07/2016	Meeting room	English	65:12	
6	Interpreter E Arabic - English	29/07/2016	Meeting room	English	46:53	<i>Interpreter B in transcripts</i>
<b>NGO representatives and volunteers</b>						
1	NGO representative 1	18/09/2015	Café	English	N/A	No audio
2	NGO volunteer 1	13/01/2016	NGO office	English	27:31	
3	NGO representative 2	22/01/2016	NGO office	English	37:26	
4	NGO representative 3	02/06/2016	Café	English	48:23	<i>Steve in transcripts</i>
<b>Asylum seekers and refugees</b>						
1	Applicant A (male, Iraqi)	12/05/2016	Private home	English	54:38	
2	Applicant B (male, Sudanese)	21/07/2016	Private home	Arabic (interpreted)	N/A	No audio
3	Applicant C (male, Nigerian)	25/07/2016	Meeting room	English	90:39	



UKVI staff						
1	UKVI staff 1	12/07/2016	UKVI office	English	36:22	
2	UKVI staff 2	12/07/2016	UKVI office	English	44:07	
3	UKVI staff 3	12/07/2016	UKVI office	English	24:07	
4	UKVI staff 4	12/07/2016	UKVI office	English	40:50	
5	UKVI staff 5	12/07/2016	UKVI office	English	40:43	
6	UKVI staff 6	12/07/2016	UKVI office	English	30:14	
7	UKVI staff 7	18/07/2016	UKVI office	English	N/A	No audio
8	UKVI staff 8	18/07/2016	UKVI office	English	48:07	
9	UKVI staff 9	18/07/2016	UKVI office	English	26:13	
10	UKVI staff 10	18/07/2016	UKVI office	English	21:49	
11	UKVI staff 11	18/07/2016	UKVI office	English	N/A	
12	UKVI staff 12	28/07/2016	UKVI office	English	N/A	No audio
13	UKVI staff 13	28/07/2016	UKVI office	English	N/A	No audio
14	UKVI staff 14	28/07/2016	UKVI office	English	N/A	No audio
15	UKVI staff 15	02/08/2016	UKVI office	English	59:59	

16	UKVI staff 16	02/08/2016	UKVI office	English	23:02	
17	UKVI staff 17	02/08/2016	UKVI office	English	47:15	
18	UKVI staff 18	02/08/2016	UKVI office	English	38:42	
19	UKVI staff 19	02/08/2016	UKVI office	English	N/A	No audio
20	UKVI staff 20	02/08/2016	UKVI office	English	41:20	
<b>Other observations</b>						
1	Interpreting training session observation	20/10/2015	Interpreter training agency	English	N/A	N/A

## Appendix H - Example observational notes taken in legal advice meetings

### Notes from Meeting 5 (Chapter Five)

20 mins. [redacted] - ask what client's language is: says Arabic.  
 - client takes some time to read Arabic version of the form (before) (start 11.10 ish) 11am [redacted] 04/16

we have English & Arabic forms on table side by side.

- pre-recording discussion: client sees me before, 4 months ago. Maybe when I was on report.  
 - client v. interested, we talk at start about research. I ask if [redacted] info. form in Arabic is clear he says yes. Client describes himself as having a little English.  
 - LAWYER has computer. Client has smart phone → does on client's phone, he gives his phone to [redacted] who emails them to herself.  
 - Client in thick black sports-style padded jacket and dark blue baseball hat. Catches my eye several times, we half smile at each other.

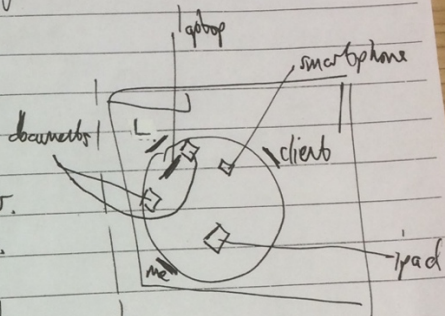
- [redacted] arranges to print documents, gets client to write wife's phone no. on copy of her passport

- Client has expression of non-understanding on his face (frown) when [redacted] is explaining about his brother → will ask interpreter. Need to do statements anyway.

11:20 [redacted] asks about workshop materials: when client expresses that he may not have seen those, she gets them up on her laptop to show him. Scrolls through documents on computer & prints it off for client.

14:49 [redacted] also shows client the online forms that need to be filled out.

14:50 [redacted] Client takes away workshop materials, and my info form, away. (Arabic copy)



## Appendix I – Extract from fieldwork notes

### Extracted from notes from a day spent at the advice service in February 2016

*(Names have been edited to reflect the pseudonyms used in the thesis.)*

I'm pleased with today - I spent part of the day working on the pro bono file (and made progress there by writing several more letters), and got two multilingual audio recordings, both of which are different in character from my previous recordings. There was meant to be a family reunion workshop in the morning but it was cancelled as there was only one client attending, and he needed an interpreter so a one on one meeting was arranged instead. The meeting that we had therefore was interpreted (again, a Sudanese Arabic client) and by the interpreter that I already know. Julia left it to me to introduce my research even though it was a first time client - I had brought my papers but was not really expecting this, and so I had not checked beforehand who the interpreter was or cleared it with her. It was a good thing that it was [Int A] who is already aware of my research. I didn't get a signed consent form from her, but I did clear it with her orally after the session so I am comfortable that I do have consent from her.

Because it was a first time client, the interaction was very different from the last multilingual interaction that I observed and this is a good thing for my data. The conversation was arms length, but as noted above felt quite tense. It actually felt to me that a lot of what Julia was saying was quite formulaic, that might have been the effect of her stopping regularly to allow the interpreter to interpret, or might have been due to the subject matter being more or less routine: advising on how to make a family reunion application. It was interesting too as I was asked to take feedback from the client at the end of the meeting, luckily the interpreter stayed to help with this but it was not a great success. The design of the form is actually quite complicated, so having to explain it to the client through an interpreter is not easy.

The second meeting was with Khalid, the client who was the subject of the last multilingual audio meeting I had. This is brilliant as it shows progression through one client's matter, and this was a meeting to prepare appeal forms and so was very different in character from the first one. Julia spent a lot of time typing, and it is a great example of the interaction of talk and text! but not only that, of talk and type, or input into an online system. Also Julia had prepared submissions in advance of the meeting, showing how lawyers work around meetings. I didn't get a chance to ask for permission to see a copy of any documentation; maybe at some point I need to see if I can get a copy of the online appeal submission form so that I can review the audio with this to hand. I imagine you might need a login and password for this, it might be something I need Julia to do me a favour with but if I just ask for a blank form then I imagine it should be okay. Alternatively she said the information is the same as the paper forms that they send with

a refusal decision, so I should check the papers I copied after the last meeting. The client seemed quite happy and relaxed with me recording again, but I had to explain to his friend who had come to interpret and ask him for permission. Now here, I gave him an English language form for asylum applicants; didn't date it; and didn't ask for a signature, mainly on the basis that he appeared from conversations to also be a refugee. Was this the right decision? I did have an interpreter consent form – but this would require a signature from him and I didn't feel comfortable asking. I'm comfortable that I got consent from this person - he seemed to read my form quite carefully during the meeting as there were quite a few silent periods when he and the client seemed a bit bored - but Julia had to remind him to take my information form away with him when he left!

## Appendix J - Call for participants for client ethnographic interviews



Shaped by the past, creating the future

### Research project: communicating with lawyers and the Home Office

#### ENGLISH

My name is Judith. I am a volunteer at the conversation group [REDACTED]. I am also a student at Durham University, where I am studying for a postgraduate research degree.

My research is about language and communication in the UK asylum system. I am interested in how lawyers and the Home Office communicate with people seeking asylum, and refugees. As part of my research I want to find out about people's experiences of communicating with lawyers, legal advisers, and Home Office staff during their asylum case.

If you are an asylum seeker or a refugee and would like to talk to me about your experience of communicating with lawyers or the Home Office, please contact me by email, phone, or WhatsApp. I will arrange to meet you [REDACTED] to talk together for about one hour. I can pay you travel expenses (bus ticket) to get to the meeting place. If you would like to talk with me in your own language instead of English, please tell me and I can arrange an interpreter. Unfortunately I cannot provide child care, I am sorry, but you can bring your children with you. You can also bring a friend to our meeting if you want.

Because it is for my research, I will take notes about what you tell me during our conversation. I may also audio record the conversation if you agree. I will keep any notes and recordings private. Afterwards, I may write about the things you tell me in my research reports, but I will not use your real name or any information which could identify you personally.

My email: [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk)

My phone number: [REDACTED] (this is not a Lyca phone, but you can message me or call me on WhatsApp).

Thank you.

Judith Reynolds

## FRANÇAIS

Je m'appelle Judith. Je suis bénévole au club de conversation anglais [REDACTED]. Je suis également une étudiante à l'université de Durham, où je poursuis des études de troisième cycle dans la recherche.

Je fais de la recherche sur les langues et la communication dans le système d'asile du Royaume-Uni. Je m'intéresse aux méthodes qu'emploient les avocats et le personnel du ministère de l'Intérieur (Home Office) pour communiquer avec les demandeurs d'asile et les réfugiés. Pour une partie de mon projet, je voudrais parler avec des demandeurs d'asile et des réfugiés au sujet de leurs expériences de la communication avec les avocats, les représentants juridiques, et le personnel du Home Office pendant la poursuite de leur demande d'asile.

Si vous êtes demandeur/euse d'asile ou réfugié(e), et vous aimeriez parler avec moi de votre expérience de la communication avec les avocats et le personnel du Home Office, veuillez me contacter par e-mail, téléphone ou WhatsApp. Je prendrai rendez-vous avec vous pour en discuter ensemble pendant une heure environ, dans un lieu [REDACTED]. Je vous rembourserai vos frais de transportation (ticket de bus) pour arriver au lieu de rencontre. Si vous désirez parler avec moi dans votre langue (à la place de discuter en anglais), faites-moi savoir et je peux organiser quelqu'un pour interpréter. Je suis désolée mais je ne peux pas fournir quelqu'un pour garder les enfants ; pourtant vous pouvez emmener vos enfants avec vous à notre rencontre.

Parce que notre discussion servira pour mes recherches, je prendrai des notes pendant la conversation sur ce que vous me dites. Si vous êtes d'accord, j'enregistrerai aussi la conversation sur iPad. Je garderai en privé toutes mes notes, et l'enregistrement de la conversation. Après la rencontre, il est possible que j'écrive ou que je parle de ce que vous m'avez dit dans mes rapports de recherche, mais je n'utiliserai jamais votre nom actuel, ni des informations qui pourraient vous identifier personnellement.

Mon adresse email : [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk)

Mon numéro de téléphone : [REDACTED]

(ceci n'est pas une téléphone Lyca, mais vous pouvez m'envoyer un message ou m'appeler sur WhatsApp)

Merci beaucoup.

Judith Reynolds

عربي

السلام عليكم ورحمة الله وبركاته

اسمي جوديث وأنا متطوعة في المجموعة الحوارية بمدينة [REDACTED]، وكذلك طالبة بجامعة درم حيث أقوم بدراسة الدكتوراة.

يركز بحثي على اللغة وطرق التواصل المستخدمة في نظام اللجوء بالمملكة المتحدة، ولذلك أهتم بدراسة كيفية تواصل المحامين وموظفي وزارة الهجرة البريطانية مع طالبي اللجوء. وكجزء من بحثي، أود أن أعرف أكثر عن تجارب طالبي اللجوء مع محاميهم وموظفي وزارة الهجرة خلال طلبهم للجوء في المملكة المتحدة.

إذا كنت لاجئا في المملكة المتحدة وكنت ترغب بالحديث إلي عن تجربتك مع محاميك أو موظفي وزارة الهجرة فلا تتردد بالتواصل معي عبر الهاتف، البريد الإلكتروني أو برنامج الواتساب. سأقوم حينها بترتيب لقاء بيننا في [REDACTED] لننتحدث حول هذا الأمر لمدة ساعة تقريبا. أستطيع أن أدفع لك تذكرة الحافلة للقدوم إلى مكان المقابلة. لو كنت ترغب بالحديث إلي بلغتك الأم فلا تتردد بإخباري مسبقا وسأقوم بلحضور مترجم معي. لو كان لديك أطفال فبإمكانك إحضارهم معك حيث أنني لا أستطيع أن أدفع أجر جليلة أطفال، كما أنه بإمكانك إحضار صديق معك إذا أردت.

الغرض من هذه المقابلة هو الاستفادة منها في بحثي ولذلك ستراني أكتب بعض الملاحظات. كذلك قد أقوم بتسجيل المقابلة صوتيا فقط لو قبلت بذلك. في كلا الحالتين فأني سأقوم بحفظ ملاحظاتي التي أدونها والتسجيل الصوتي في مكان آمن لن يطلع عليه أحد. قد أقوم بكتابة تجاربك التي ستخبرني عنها في بحثي ولكنني لن أذكر اسمك الحقيقي أبدا أو أية معلومات أخرى حفاظا على خصوصيتك.

بريدي الإلكتروني هو [j.t.reynolds@durham.ac.uk](mailto:j.t.reynolds@durham.ac.uk)

رقم هاتفي الجوال هو [REDACTED]

للمعلومية فإن هذا ليس رقم ليكا ولكن بإمكانك الاتصال بي أو الكتابة إلي على الواتساب.

وشكرا جزيلاً لكم

جوديث رينولد



## Appendix K – Transcription conventions

### Speakers

J	Julia
Int A	Interpreter A (Arabic)
Int B	Interpreter B (Arabic)
Int	Interpreter (Chinese)
R	Researcher
Jamal	Jamal
S, A, B, D, I, F,	other participants are normally indicated by their initials. Participants
K, O, M	in the interactions are specified by name in the chapters.

### Transcription of utterances

.	terminative/falling intonation (demonstrating speech is ending)
,	continuing intonation (demonstrating speech is continuing)
?	questioning (rising) intonation at end of phrase
<u>here</u>	emphasis
(xxx)	unintelligible
(seems)	unclear, best guess at what was said
(UTTERANCE)	anonymized data
((xyz))	other details including paralinguistic features and other noises
[	overlapping speech (English)
{	overlapping speech (Arabic)
(.)	micropause
(..)	pause of around 0.5 seconds
(...)	pause of around 1 second
(3)	longer pause or silence (with number representing duration in
seconds)	
:	sound stretching (prolongation of sound)
-	cut off word (part of word only spoken)
=	latching-on of two utterances without a pause
@	laughter
UTTERANCE	utterance spoken more loudly than surrounding utterances
°utterance°	utterance spoken more softly than surrounding utterances
<utterance>	utterance spoken more slowly than surrounding utterances
>utterance<	utterance spoken more quickly than surrounding utterances
↓	fall in pitch in the utterance-part immediately following the arrow
↑	rise in pitch in the utterance-part immediately following the arrow
wahad	Arabic word or phrase featuring as a code-switch in English talk

## Appendix L – Example analysis notes and excerpt from marked up transcript

### Meeting 1

63 phases / 73:00 mins

OBS. 06 - INITIAL ADVICE

**Participants:** Lawyer; Client; Interpreter (P); Steve (X, NGO worker); Researcher

**Governing goal / purpose:** Advising client on options after family reunion refusal

**Activity types:** ① Giving advice on legal processes

**PHASES**  
1-42  
46-51  
62-63

→ 50 mins. from the start; 5 mins @ 55:17; closing remarks

→ L leads the talk, but CI and X active with questions & CI w. information

→ Interpreted interaction. Complex: various challenges to interpreting

→ Defined roles: L = expert, advisor; Int = linguistic intermediary; CI, X = questioners; CI = decision maker; R = silent participants

16-20 emotional aspects  
40, 42, 46, 48-51 administrative nature  
62-63

② Stories & discussion on family reunion

**PHASES**  
52-61

→ 11 1/2 minutes, at end of meeting

→ more equal level of participation by CI, L, X

→ interpreting more patchy, sometimes summarised, missed

→ CI seems to be expanding his L2 English to join the talk

→ R silent participants

→ Mixture of anecdotes & personal experience narratives & personal opinions  
not directly relating to CI's situation

③ Small talk

**PHASES**  
43-45

→ 3 mins. @ 52:21

→ Loubt of the room. All others participate. CI, X lead but R & Int join in.

→ Common lack of HO knowledge of Sudan, leads into sharing personal biographical info. linked to place

→ variety in language use. some L2 use, language mixing

→ shift to more personal roles.

**Points of interest:**

① Complexity of advice & how L uses language → difficult to interpret

② MEANS: above point. Also CI's L2 English coming into play for (code-switching) simpler talk. MVC use.

③ CONTEXT: his lack of contextual knowledge. Prior relationships L/CI/X. Understanding of differences in admin. procedures by country (HO lack) customs

④ POWER & AGENCY: important for successful communication. All parties interrupt (except R)

⑤ Relationship building:  
- Lawyer's use of empathy & CI response  
- Small talk







Int	weren't aware of the situation (xxxx) وأنا فكرت بأنه ليس من العدل عدم إخبارك بهذه المعلومات	I thought It would not be fair if I did not tell about these information.
L	[2137] okay, so (.) it's up to you	??
Int	إذا فالقرار لك	
L	(.) um what, I mean what what would you like to do apart from, go and bring your family right now	
Int	ماذا تريد أن تفعل الآن	
Cl	(laughs)	What do you want to do now?
Int	بغض النظر عن إحضار عائلتك هنا	Regardless bringing your family here?
Cl	الخيارات كلها صعبة بالنسبة لي	All options are difficult for me.
Int	All the options are very difficult for me	
Cl	كل الخيارات صعبة	All of them are not easy.
Int	All the options	
Cl	إحضاري لجزء من الأولاد، إنه صعب علي وكذلك تركهم جميعاً هناك	Bringing only part of the family is tough for me and even leaving them all there.
Int	[2224] Um, you can bringing a part of them is so difficult for me, leaving everybody there is also difficult for me	
L	I know, it's (.) I wish it's something that you didn't have to consider	
Int	كنت أتمنى بأن هذا الشيء لا يحصل	I wish that did not happen.
Cl	عارف	I know.
L	The quality of these decisions is not improving at all	
Int	كما أن جودة هذه القرارات سيئة جداً	Even the quality of decisions is too bad.
L	um and you know I I (.) I struggle to understand these ridiculous decisions so, I have no idea how difficult it is for you	
Int	واجهت صعوبة بالإقناع بتلك القرارات الغبية	I found a difficulty in convincing myself with these stupid decisions.
Cl	ليس بيدها أي شيء	She cannot do anything
Int	I know you don't have any thing to do (with it)	
Cl	أنا عارف إنه قرار وزارة الداخلية	I know that it is the Home Office decision.
Int	yeah I understand and I understand it's the Home Office decision	
Cl	الوزارة قراراتها شوي صعبة	Home Office decisions are quite hard.
Int	Home Office are very difficult er with decisions	
L	mmm what I can say obviously is that I will support you with it for as long as I possibly can	
Int	ما أود قوله بأنني سوف أدمعك بالقدر الذي أستطيعه	What I want to say is that I will support you as much as I can.

lab turn missing translation

\* 'looking at lab. and using hands on desk in gesture'

## Appendix M – Recontextualization analysis table

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	Examples Meeting 11 IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	Examples Meeting 14 IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
<b>A. Intertextual - drawing on prior texts</b>					
A1. Using (referring to or drawing on) legislation or case law in information exchange	Regulatory texts	transmodal (writing to talk) intertextual prior text explicit or implicit	throughout (L, im)	throughout (eg IP1) (L to C&I, im) [IP 6-7 - client and interpreter orient to data protection legislation, but is this just in reporting the facts, without knowledge of the law? (C&I to L, im)] IP 30 - long residence laws, client mentions these in conversation with int (C to I, ex) IP 30 , 31, 32 - client talking about his	all of the lawyer's questions are oriented to the law, whether explicitly or implicitly

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	<b>Examples Meeting 11</b> IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	<b>Examples Meeting 14</b> IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
				asylum case history, incl Falun Gong practice, 2007 fear of returning, implicitly referencing the asylum laws (he talks about this in order to get Int to ask questions for him) (C to I, im) IP 34 - client explicitly referencing the long residence laws and asking Int to ask about them (C to I, ex) IP 46 - interpretation of the client's speech at IP 30, 31, 32, and 34 (I to L, im)	

A2. Using (referring to or drawing on) legislation or case law in giving advice	Regulatory texts	transmodal (writing to talk) intertextual prior text explicit or implicit	<p>IP 9 - family returns procedure (L, im)</p> <p>IP 10 - law on challenge by JR only (L, im)</p> <p>IP 10 - legal aid rules (L, im)</p> <p>IP 11 - referring to s55 duty (L, ex)</p> <p>IP 12 - self-serving evidence explanation? Or is this drawing on a discourse? (L, im)</p> <p>IP 13-15 - the rules on assessing credibility (L, im)</p> <p>IP 18, 20 - the law on deportation (refoulement, internal relocation) (L, im and ex)</p> <p>IP 21 - the UN Convention (L, ex)</p> <p>IP 22 - the rules on credibility (L, im)</p> <p>IP 25 - referring to s55 duty (L, ex)</p> <p>IP 26 - referring to law on deportation (refoulement) and protection of adults (L, ex)</p> <p>IP 27 - family returns process (L, ex)</p> <p>IP 28 - implicitly drawing on s55 in advice about demonstrating impact on daughter (L, im)</p> <p>IP 29 - FGM banning orders (L, ex)</p> <p>IP 31 - the rules on credibility and their effect (L, im)</p> <p>IP 32 - explicitly drawing on s55 in advising re impact on daughter (L, ex)</p>	<p>IP 11 - references to the data protection laws and SAR procedure by lawyer (cut off) (L to I, ex)</p> <p>IP 12, 15-20 - advice on independence of SAR procedure from asylum procedure (L to C&amp;I, im)</p> <p>IP 24 - implicit drawing on time limits for SARs in the data protection legislation (L to I, im)</p> <p>IP 27, 29 - unacceptable timescale (L to C&amp;I, im)</p> <p>IP 28 - references to data protection laws (L to C&amp;I, ex)</p> <p>IP 46 - advising on long residence rules (L to C&amp;I, ex)</p> <p>IP 47, 52 - advice on asylum and UKVI view of Falun Gong, and last incident being some time ago (L to C&amp;I, im and ex)</p> <p>IP 49 - advice on right to make fresh claim but need for evidence, change in Home Office position re Falun Gong (L to I, im)</p> <p>IP 50, 52 - advice on UKVI rules about unauthorised long residence (L to C&amp;I, im)</p> <p>IP 66 - legal aid rules (Scotland), lawyer (and client) refers to these (C&amp;I to L, ex) (L to C&amp;I, ex)</p>	<p>implicit = advice on substance of law without citing or referencing it</p> <p>explicit = citing or referencing law (or saying 'this is what the law says...')</p>
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			<p>IP 32 - judicial review as only way to prevent deportation (L, im)</p> <p>IP 33 - judicial review process (L, im)</p> <p>IP 34 - law on FGM banning orders (L, im)</p> <p>IP 43 - family returns procedures (L, im)</p> <p>IP 44 - the rules on credibility and their effect (implicit) (L, im)</p>		
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Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	<b>Examples Meeting 11</b> IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	<b>Examples Meeting 14</b> IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
A3. Using (referring to or drawing on) other generic regulatory texts	Regulatory texts	transmodal (writing to talk) intertextual prior text explicit or implicit	IP 10 - legal centre funding rules (don't do JR) (L, im) IP 29 - legal centre (funding) rules (don't cover FGM banning orders) (L, im)	IP 1 - the question 'was it as a visitor?' (L to C&I, im) (I to C, ex) IP 8, 9 - solicitors' professional conduct rules (implicit) re previous lawyer (L to I, im) IP 12 - metaphor of GP records (although this is a generic text not a specific one) (L to I, ex) IP 22 - role and duties of an MP (L to C&I, im) IP 25, 29 - the hidden references to rules about UKVI target response times to MP enquiries (L to C&I, im) [IP 25, 29 - DPU reference number, referencing a bureaucratic cultural practice] (L to C&I, im) IP 33 - int referencing professional rules re lawyer's role (i to C, im) IP 60 - int referencing procedures	

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	<b>Examples Meeting 11</b> IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	<b>Examples Meeting 14</b> IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
				regarding MP representations (on behalf of those who live in the constituency only) (I to C, im) IP 66 - signing forms to instruct lawyer (NB this is a legal contract) (C to I&L, im)	
A4. Using a document present in the meeting non-verbally for information exchange	Subordinate texts (always written)	unimodal (reading only) intertextual prior text explicit	IP 1-2, 4, 6 - the fresh claim refusal decision (C --> L, ex) IP 8-2 - the family returns appointment letter (C --> L, ex)	IP 15-20 - the soft copy letters from UKVI about the SAR (C to L, ex) IP 27 - the first letter from UKVI (C to L, ex)	

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	Examples Meeting 11 IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	Examples Meeting 14 IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
				IP 42 - the printed information about the MP (L to C&I, ex)	
A5. Using a document present in the meeting non-verbally as an object/tool in communication	Subordinate texts or other written texts	transmodal (writing to action/gesture) intertextual prior text explicit	IP 13-15 - gesture to the refusal document when talking about FGM issue (L, ex) IP 27 - reference to the refusal document in talk 'this is pretty quick' (L, ex) IP 43 - reference to family returns questionnaire in talk 'at least with this' (L, ex)	IP 15-20 - the soft copy letters from UKVI about the SAR (C to L, ex) IP 27 - the first letter from UKVI (C to L, ex) IP 42 - the printed information about the MP (L to C&I, ex) IP 64 - the printed information about the second MP (L to C&I, ex)	Use of an object for communication NB does this involve a blurring of the boundary between what is 'communication' and what is 'context'? (Tracy, 1998)

A6. Talking about a document (or information in a document) present in the meeting	Subordinate texts	transmodal (reading to talk) intertextual prior text explicit or implicit	<p>IP 3, 5, 11 - format of refusal decision (L, ex)</p> <p>IP 7 - age of daughter, draws on refusal document (L, im)</p> <p>IP 8-2 - the family returns appointment letter (C, ex)</p> <p>IP 11 - lack of mention of FGM in the refusal document (L, ex)</p> <p>IP11 - metacommentary on reading the refusal document for the s55 reference (L, ex)</p> <p>IP 11 - reference to s55 in the refusal document (L, ex)</p> <p>IP 12 - reference to the letters from Nigeria in the refusal document (L, im)</p> <p>IP 12 - quoting 'self-serving evidence' from the refusal document (L, im)</p> <p>IP 10 - the decision format; the negative credibility findings reported in the refusal decision (L, ex)</p> <p>IP 13-15 - the way FGM is treated in the refusal decision and in reports therein of previous decisions (L, ex)</p> <p>IP 21 - the refusal decision (L, ex)</p> <p>IP 26 - the refusal decision, 'this is pretty quick' (L, im)</p> <p>IP 30 - the refusal decision saying client can't prove risk, related to</p>	<p>IP 1 - the client record form (L to C&amp;I, im)</p> <p>IP 15-20 - the soft copy letters from UKVI about the SAR (C&amp;I to L, ex)</p> <p>IP 24 - the second letter from UKVI about the SAR (L to C&amp;I, ex and im) (C&amp;I to L, ex)</p> <p>IP 25 - the letters from UKVI about the SAR (L to C&amp;I, im)</p> <p>IP 27 - the first letter from UKVI (C to L, ex) (L to C&amp;I, ex)</p> <p>IP 41 - dates, and DPU reference number, from the SAR letters (L to I, ex)</p> <p>IP 42 - the letters from UKVI about the SAR, and the address on these (I to C, ex) (I to L, ex) (L to I, ex)</p>	<p>NB there is also current text recontextualization going on in meeting 14 IP 15-20 as the UKVI letters were talked about when they weren't at hand; once located, there is talk around them which refers back to the earlier mention of them in the interview</p>
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			<p>client's interview (L, im)</p> <p>IP 37 - family return questionnaire. CI question and L advice on how to complete it, refers to its contents including quotes (L, ex) (C, ex)</p> <p>IP 38 - authority to contact GP (L, ex)</p> <p>IP 39 - refusal document (L, im)</p>		
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A7. Talking about an existing document (or set of documents) that is/are not present in the meeting	Subordinate texts or other written texts	transmodal (writing to talk) intertextual prior text (unless generic) explicit or implicit	<p>IP 10 - the first refusal re credibility (L, im)</p> <p>IP 13-15 - [the first refusal re credibility??] (L, im)</p> <p>IP 13-15 - the medical evidence re FGM (C, ex)</p> <p>IP 16 - refusal re credibility, implicit (L, im)</p> <p>IP 18 - letters that other Nigerian families are receiving (L, ex)</p> <p>IP 22 - first refusal on credibility (L, ex)</p> <p>IP 24 - support letter from school re attendance (C, ex)</p> <p>IP 24 - two letters re family return meeting, an [email?] to cancel the first meeting (C, ex)</p> <p>IP 30 - the medical evidence re FGM (L, ex)</p> <p>IP 37 - notices of liability to deportation from Home Office (in context of answering the family return questionnaire) (L, ex)</p> <p>IP 44 - first refusal re credibility (L, im)</p> <p>IP 45 - information on FGM banning orders and lawyers dealing (L, ex)</p>	<p>IP 6-7 - client's case file at UKVI (C to I, im) (I to L, ex)</p> <p>IP 11 - client's case file at UKVI (L to C&amp;I, ex)</p> <p>IP 11 - letter from UKVI about the SAR (re the complaint procedure) (L to C&amp;I, ex)</p> <p>IP 13-14 - client's case file at UKVI (L to C&amp;I, ex)</p> <p>IP 21 - client's case file at UKVI (his question on whether it is destroyed after 10 yrs) (C to I, ex)</p> <p>IP 22 - directory of MPs and constituencies (L to I, im)</p> <p>IP 23 - client's case file at UKVI (I to L, ex) (L to I, ex)</p> <p>IP 24 - the first letter from UKVI about the SAR (L to C&amp;I, ex) (C&amp;I to L, ex)</p> <p>IP 25 - client's case file at UKVI (L to C&amp;I, im)</p> <p>IP 26 - client's case file at UKVI (L to C&amp;I, ex)</p> <p>IP 32 - previous UKVI application documents &amp; refusal, client talks about this in narrative (C to I, ex)</p> <p>IP 36 - client's case file at UKVI, specifically that it could contain evidence that a prior application was submitted, client talks about it in narrative (C to I, ex)</p> <p>IP 46 - client's case file at UKVI, int</p>	could be in information gathering or in advice how should I deal with talk about generic texts (ie references to a category of text rather than to any one specific text)?
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				<p>refers to it when interpreting, drawing on client's previous narrative (C&amp;I to L, ex)</p> <p>IP 48 - client's case file at UKVI, lawyer can't advise without it (L to C&amp;I, ex)</p> <p>IP 50 - client's case file at UKVI, how it could be useful re long residence (L to C&amp;I, im)</p> <p>IP 57 - client's case file at UKVI, int and client discussing that lawyer can't take on his case without it (I to C, ex)</p> <p>IP 58 - Scottish legal aid papers (implicit) and any papers with Scottish lawyers (C to I, im) (I to C, ex)</p> <p>IP 65 - client's SAR (explicit - the implied meaning is the client's case file at UKVI), lawyer can't take the case without it but happy to look at the documents when client has them (L to C&amp;I, ex)</p> <p>IP 66 - client talks about forms he filled in and files that are with Scottish lawyers (C to L&amp;I, ex)</p> <p>IP 66 - client's SAR (explicit - the implied meaning is the client's case file at UKVI) (L to C&amp;I, ex)</p>	
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A8. Talking about the discursive event of a previous reading of a document (whether or not present in the meeting)	Subordinate texts	transmodal (reading to talk) intertextual prior text explicit or implicit	IP 8-1 - the daughter reading the FGM evidence presented to court (explicit) and the effect of this on her (C, ex) IP 8-2 - the effect of receiving the family returns appointment letter on daughter (C, ex) IP 22 - fresh claim decision maker's reading of the appeal findings (L, im) IP 24 - effect of receiving family returns meeting letter on daughter's health (C, ex) IP 37 - client talking about reading the family return questionnaire with his wife (C, im)	IP 6-7 - client referring to past documents: response to first SAR, second letter (C to L&I, ex) IP 24 - the letters from UKVI about the SAR (L to C&I, ex)	



A9. Talking about a previous discursive event or specific series of events (that is not a reading of a document)	Discursive events or processes	unimodal or transmodal intertextual prior text or series of texts explicit or implicit	<p>IP 8-1 - the discussion about FGM in the appeal hearing (C, ex)</p> <p>IP 9 - client's application process (L, ex)</p> <p>IP 13-15 - client's first interview and client's appeal hearing (C, ex)</p> <p>IP 13-15 - client attending GP to get evidence (C, ex)</p> <p>IP 16 - client's first interview and appeal decision (L, ex)</p> <p>IP 16 - implicitly discussing the intertextual chain that constrains client (L, im)</p> <p>IP 17 - description of client's thought and action process in getting FGM evidence (L, ex)</p> <p>IP 20 - lawyer's previous Nigerian single mother cases which have succeeded (L, ex)</p> <p>IP 22 - appeal hearing and FGM discussion by that judge (L, ex)</p> <p>IP 23 - GP and health visitor and school involvement in daughter's health management (L, ex)</p> <p>IP 24 - health visitor and school and GP involvement in care (C, ex)</p> <p>IP 24 - daughter's visit to psychiatric hospital (L, im)</p> <p>IP 27 - processing time for client's fresh claim (L, im)</p> <p>IP 30 - client's first interview (L, ex)</p>	<p>IP 1 - client's first application for asylum (question/answer) (L to C&amp;I,ex) (C to I&amp;L, ex)</p> <p>[IP 2 - client referring to past events: being asked to leave his accommodation, ceasing to report to UKVI, ceasing to receive letters from UKVI, hearing from a friend in 2007 that he could apply again; interpreter bringing in 'regulations' when she interprets this (C to L&amp;I, ex)]</p> <p>[IP 3 - client referring to past events: making a new application through a lawyer, living above a takeaway (implicit), being refused (C to L&amp;I, ex and im)]</p> <p>[IP 4 - client referring to past events: returning to reporting, being asked to leave his accomodation (C to L&amp;I, ex)]</p> <p>[IP 5 - client referring to past events: move to Scotland, legal advice there that he needed to go back to England to 'find the documents'; interpreter saying 'make the application' (C to L&amp;I, ex)]</p> <p>IP 6-7 - client referring to past events: the SAR (C to L&amp;I, im); interpreter embellishes this to talk about advice from lawyer that he needed to get his case file (I to L, ex)</p> <p>IP 8 - interpreter giving location of</p>	NB IP 2-5 will also contain other recontextualizations such as implicit references to legal procedures etc, but these are not listed in any detail here or in the text of the chapter for reasons of space.
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			<p>IP 34 - referencing other clients who have applied for FGM banning order (L, ex)</p> <p>IP 36 - client reporting he has asked for support letters but been denied, L querying if he has asked directly (L, ex) (C, ex)</p> <p>IP 38 - L referencing Cl's encounters with GP (L, ex)</p> <p>IP 43 - advising on past family returns procedures and the positive side of changes here (L, ex)</p> <p>IP 44 - client's first interview and appeal hearing 'a misinterpretation of something that actually in reality doesn't mean anything', L voicing her alternative version of what 'should have' been said (L, ex)</p>	<p>lawyer, referencing (her prior talk w client) (I to L, im)</p> <p>IP 9 - interpreter arguing for client to change lawyers, referencing (prior talk?) (I to L, im)</p> <p>IP 10 - client talking about arrangement with other lawyer (C to L&amp;I, ex)</p> <p>IP 11 - 'what the Home Office have done', i.e. client's case history (L to C&amp;I, im)</p> <p>IP 24 - 'was the original request in January' questions about timing of SARs (L to C&amp;I, ex)</p> <p>IP 30, 31, 32 - client talking about his asylum case history, incl history of Falun Gong practice, 2007 family death and involvement of refugee support organisation to see if he could get help to go home, UKVI were contacted, he was refused then, fear of return (interpreted at IP 46) (C to L&amp;I, ex)</p> <p>IP 42 - what address client used at time of applying; discussing the address and that it belongs to client's friend (int says 'help him to make the phone calls') (I to C, ex) (C to I&amp;L, ex)</p> <p>IP 44 - int relating client's history with Falun Gong and reason for staying with friends in UK (I to L, ex)</p>	
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				<p>IP 58 - client and int talking about process of instructing Scottish legal aid lawyers, and in general that transferring documents to a lawyer means instructing them (I to C, ex) (C to I, ex)</p>	
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A10. Talking about repeated past discursive processes/discourses that characterise a certain situation	Discursive events or processes	unimodal or transmodal intertextual series of prior texts explicit or implicit	IP 12 - self-serving evidence explanation (L, im) IP 16 - ['any asylum case' and constraining effect of intertextual chain] (L, im) IP 18, 20 - current drive to remove Nigerian families (based on lawyer's other clients), and internal relocation arguments (L, ex) IP 26 - current government's drive to deport people & manage numbers (implicit) (L, im) IP 29 - current government's support for banning FGM (L, ex) IP 35 - advising on UKVI's attitude towards evidence, based on client's previous experience, 'you're damned if you do and you're damned if you don't'; 'culture of	IP 13-14; IP 15-20; IP 26 - delays in obtaining SARs and reasons for this (L to C&I, ex and im) IP 13-14 - legacy cases (L to I, ex) IP 12 - hidden references to experiences of Chinese state authority and the lack of ability to complain independently in China (I to L, im) IP 25 - others' experienced response times for MP enquiries to UKVI (L to C&I, ex) IP 49 - Int comment that client attends Falun Gong meetings every week, lawyer advice that the Home Office position 'has changed a lot' (C&I to L, ex) (L to C&I, ex) IP 51 - lawyer's comment on strictness of current law and UKVI	Often draw on personal experiences

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			disbelief' (L, im) IP 36 - advice on whether health visitors will provide letters of support (L, ex) IP 37 - family returns questionnaire as a standard document (L, ex) IP 40 - advice about likely outcome of being asked to submit evidence directly (based on L's prior experience) (L, im) IP 42 - UK government's stance and hard line (L, im) IP 43 - advising on past family returns procedures and the positive side of changes here (L, im)	compared to her past experience (L to C&I, ex)	

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B. Intertextual - drawing on future texts					

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B1. Talking about a document that does not yet exist (eg in advice or to communicate goals)	Subordinate texts or other written texts	transmodal (writing to talk) intertextual future text explicit or implicit	IP 17 - statement that client could write to UKVI: includes suggested content (L, ex) IP 17 - imagined response from UKVI to this statement (L, ex) IP 18 - another fresh application (NB document and process) (L, ex) IP 23 - possible support letters from GP school and health visitor (L, ex) IP 25 - possible content of support letters (L, ex) IP 28 - advice on getting support letters to evidence impact, and some evidence about FGM in Nigeria (L, ex) IP 32 - advice re evidence of impact on daughter; advice on injunction (L, ex) IP 35 - suitcase full of hypothetical	IP 6-7 - client expressing he wants to reapply, reference to the fresh claim application (C to I, im) IP 11 - possible complaint letter to ICO (L to C&I, ex) [IP 25 - lawyer describing possible content of complaint letter to UKVI, and request to MP, and letter from MP to UKVI (L to C&I, ex)] IP 28 - advice on what to say in complaint letter (L to C&I, ex) IP 41 - advice on writing email to MP and contents of email (L to I, ex) IP 45 - referring to complaint letters and email to MP (L to C&I, ex) IP 49 - possible fresh claim, and fresh evidence needed for this (L to I, ex) IP 59 - talking about future letters	examples where lawyer suggests possible content mirrors data in Maley et al (1995)

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	<b>Examples Meeting 11</b> IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	<b>Examples Meeting 14</b> IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
			evidence, discussion of treatment of future evidence; evidence from independent source best (eg health visitor, school) (L, ex) IP 36 - advice on support letters (L, ex) IP 37 - family returns questionnaire and advice on how to complete it (L, ex) IP 40 - evidence/documents about daughter's health (L, ex) IP 40 - potential further fresh claim (L, ex)	from UKVI or lawyer (I to C, ex) (C to I, ex)	



Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	<b>Examples Meeting 11</b> IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	<b>Examples Meeting 14</b> IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
B2. Talking about a future discursive event or process (eg in advice or to communicate goals)	Discursive events or processes	unimodal or transmodal intertextual future text or series of texts explicit or implicit	IP 9 - family return meeting on 16 Feb (L, ex) IP 16 - future application (L, ex) IP 18 - another fresh application (NB document and process) (L, ex) IP 19 - client talking about being traceable in Nigeria through discursive processes (C, ex) IP 20 - lawyer describing situation in which client could prove risk in his home area (L, ex) IP 26 - possible change in law to 'serious irreversible harm' threshold re adult deportation (L, ex) IP 28 - advice on presenting support letters at meeting on 16 Feb and explaining the issues (L, ex) IP 29 - advice on looking into FGM	IP 6-7 - client expressing he wants to reapply (C to I, ex) IP 15-20 - int asks question about what happens if client wants to complain (I to L, ex) IP 22, 25 , 41 - advising client to contact his local MP (L to C&I, ex) IP 25 - lawyer describing complaints process (interpreted at IP 29) (L to C&I, ex) IP 43 - lawyer asking about future SAR response letters from UKVI, does client have access to the address still, advising about which MP to contact (L to C&I, ex) IP 45 - lawyer advising again on complaints process, and that involving MP is an optional addition to that (L to C&I, ex)	

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	<b>Examples Meeting 11</b> IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	<b>Examples Meeting 14</b> IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
			banning orders (L, ex) IP 29 - upcoming seminar that lawyer will attend about FGM banning orders (L, ex) IP 32 - advice on what to say to Home Office about impact on daughter; the fact that this might fail (L, ex) IP 32 - advice that judicial review is only sure remedy (L, ex) IP 33 - advice on judicial review process, and possible deportation (L, ex) IP 34 - advice on 'family law issue' (FGM banning orders) (L, ex) IP 36 - advice on presenting support letters to family returns team on 16 Feb (L, ex) IP 38 - advice about authority form	IP 49 - advice on possible further fresh claim (L to C&I, ex) IP 59 - discussion client and int around client's address and future contacts from UKVI and lawyer (I to C, ex) (C to I, ex) IP 60 - discussion client and int around contacting the local MP, for which they need his local address (I to C, ex) IP 64 - advice from lawyer about contacting MP (up to client which one) (L to C&I, ex) IP 67 - possible further meeting if client has other questions (I to L, ex) (L to C&I, ex)	

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	<b>Examples Meeting 11</b> IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	<b>Examples Meeting 14</b> IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
			for GP, incl hypothetical exchanges between UKVI and GP (L, ex) IP 39 - advice on family returns meeting on 16th and returns process thereafter (L, ex) IP 40 - the process of submitting evidence/documents about daughter's health, incl potential further fresh claim process (L, ex)		
<b>C. Intratextual - drawing on current texts</b>					

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	<b>Examples Meeting 11</b> IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	<b>Examples Meeting 14</b> IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
C1. Talking about or referring to a prior stretch of talk in the same meeting	Current discursive event	unimodal (talk only) intratextual current text explicit or implicit	IP 11 - explaining what 's55' means to the client. NB a form of interpretation. (L, ex) IP 22 - 'as I've said to you before', repeating advice on credibility (L, im) IP 23 - 'you mentioned about your daughter', changing the subject (L, ex) IP 41 - 'does that all make sense?', checking understanding (L, ex) IP 42 - 'I know it's not what you wanted to hear', empathising (L, ex)	IP 15-20 - interpreter referring to prior talk about UKVI letters (I to L, im) IP 8 - 'from that' lawyer understands client has already instructed a lawyer (L to I, im) IP 10 - 'tell her that it's not like that', client referencing English conversation about lawyer in other city (C to I, im) IP 12 - 'after complain', int refers back to advice about complaint (I to L, ex) IP 41 - lawyer names the MP when returning to the room, referring back to prior conversation (L to C&I, im) IP 53, 55 - client and int discussing lawyer's advice and personal positioning (C to I, im) (I to C, ex)	largely internal signalling and signposting functions

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	Examples Meeting 11 IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	Examples Meeting 14 IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
<b>D. Interpreting related (NB intratextual) - drawing on current texts</b>					
D1. Interpreting (across languages)	Current discursive event	unimodal (talk to talk) across languages intratextual current text explicit	none	throughout, eg IP 13-14; IP 29; IP 31; IP 44; IP 46; IP 52-53; IP 65	NB complexities introduced by the fact that interaction is interpreted are not considered in this table: for example mistakes in interpretation altered the intended meaning of recontextualisations, and entextualizations

Function / type of communicative exchange	Position of recontextualized text in the intertextual hierarchy	Characteristics of the recontextualization	Examples Meeting 11 IP = interactional phase within the transcript L/C = individual who recontextualizes (lawyer/client) ex/im = explicit or implicit	Examples Meeting 14 IP = interactional phase within the transcript L/C/I = individual who recontextualizes (lawyer/client/interpreter), and to whom the speech is directed. 'C&I' implies that the speech is interpreted, even if only partially, within the same data extract(s) ex/im = explicit or implicit	Observations
					were introduced by the interpreter rather than the client. This is about intended vs actual audience in interpreted interaction.
D2. Clarificatory exchanges during interpreting	Current discursive event	unimodal (talk to talk) same language intratextual current text explicit	none	throughout	

## Appendix N – Relevant legislation

*(texts are correct as at the date of thesis submission)*

This Appendix N contains the text of the following UK Immigration Rules and sections of Acts of the UK Parliament:

<b>1</b>	<b>Immigration Rule 339L – credibility of asylum applicants</b>
<b>2</b>	<b>Section 8, Asylum and Immigration (Treatment of Claimants, etc.) Act 2004</b>
<b>3</b>	<b>Immigration Rule 353 – Fresh claims and exceptional circumstances</b>
<b>4</b>	<b>Immigration Rule 352A - Family Reunion Requirements for leave to enter or remain as the partner of a refugee</b>
<b>5</b>	<b>Immigration Rule 352D - Requirements for leave to enter or remain as the child of a refugee</b>
<b>6</b>	<b>Article 1(A), UN Convention Convention Relating to the Status of Refugees, 1951</b>
<b>7</b>	<b>Section 55, Borders, Citizenship and Immigration Act 2009</b>
<b>8</b>	<b>Immigration Rule 339O – Internal Relocation</b>
<b>9</b>	<b>Section 7, Data Protection Act 1998 - right of access to personal data</b>

### **1. Immigration Rule 339L – credibility of asylum applicants**

339L. It is the duty of the person to substantiate the asylum claim or establish that they are a person eligible for humanitarian protection or substantiate their human rights claim. Where aspects of the person's statements are not supported by documentary or other evidence, those aspects will not need confirmation when all of the following conditions are met:

- (i) the person has made a genuine effort to substantiate their asylum claim or establish that they are a person eligible for humanitarian protection or substantiate their human rights claim;
- (ii) all material factors at the person's disposal have been submitted, and a satisfactory explanation regarding any lack of other relevant material has been given;
- (iii) the person's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the person's case;
- (iv) the person has made an asylum claim or sought to establish that they are a person eligible for humanitarian protection or made a human rights claim at the earliest possible time, unless the person can demonstrate good reason for not having done so; and
- (v) the general credibility of the person has been established.

### **2. Section 8, Asylum and Immigration (Treatment of Claimants, etc.) Act 2004**

- (1) In determining whether to believe a statement made by or on behalf of a person who makes an asylum claim or a human rights claim, a deciding authority shall take account, as damaging the claimant's credibility, of any behaviour to which this section applies.
- (2) This section applies to any behaviour by the claimant that the deciding authority thinks—
  - (a) is designed or likely to conceal information,
  - (b) is designed or likely to mislead, or

- (c) is designed or likely to obstruct or delay the handling or resolution of the claim or the taking of a decision in relation to the claimant.
- (3) Without prejudice to the generality of subsection (2) the following kinds of behaviour shall be treated as designed or likely to conceal information or to mislead—
  - (a) failure without reasonable explanation to produce a passport on request to an immigration officer or to the Secretary of State,
  - (b) the production of a document which is not a valid passport as if it were,
  - (c) the destruction, alteration or disposal, in each case without reasonable explanation, of a passport,
  - (d) the destruction, alteration or disposal, in each case without reasonable explanation, of a ticket or other document connected with travel, and
  - (e) failure without reasonable explanation to answer a question asked by a deciding authority.
- (4) This section also applies to failure by the claimant to take advantage of a reasonable opportunity to make an asylum claim or human rights claim while in a safe country.
- (5) This section also applies to failure by the claimant to make an asylum claim or human rights claim before being notified of an immigration decision, unless the claim relies wholly on matters arising after the notification.
- (6) This section also applies to failure by the claimant to make an asylum claim or human rights claim before being arrested under an immigration provision, unless—
  - (a) he had no reasonable opportunity to make the claim before the arrest, or
  - (b) the claim relies wholly on matters arising after the arrest.
- (7) In this section—
  - “asylum claim” has the meaning given by section 113(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41) (subject to subsection (9) below),
  - “deciding authority” means—
    - (a) an immigration officer,
    - (b) the Secretary of State,
    - (c) the First-tier Tribunal, or
    - (d) the Special Immigration Appeals Commission,
  - “human rights claim” has the meaning given by section 113(1) of the Nationality, Immigration and Asylum Act 2002 (subject to subsection (9) below),
  - “immigration decision” means—
    - (a) refusal of leave to enter the United Kingdom,
    - (b) refusal to vary a person’s leave to enter or remain in the United Kingdom,
    - (c) grant of leave to enter or remain in the United Kingdom,
    - (d) a decision that a person is to be removed from the United Kingdom by way of directions under section 10 of the Immigration and Asylum Act 1999 (c. 33) (removal of persons unlawfully in United Kingdom),
    - (e) a decision that a person is to be removed from the United Kingdom by way of directions under paragraphs 8 to 12 of Schedule 2 to the Immigration Act 1971 (c. 77) (control of entry: removal),
    - (f) a decision to make a deportation order under section 5(1) of that Act, and
    - (g) a decision to take action in relation to a person in connection with extradition from the United Kingdom,
  - “immigration provision” means—
    - (a) sections 28A, 28AA, 28B, 28C and 28CA of the Immigration Act 1971 (immigration offences: enforcement),
    - (b) paragraph 17 of Schedule 2 to that Act (control of entry),
    - (c) section 14 of this Act, and
    - (d) a provision of the Extradition Act 1989 (c. 33) or 2003 (c. 41),
  - “notified” means notified in such manner as may be specified by regulations made by the Secretary of State,
  - “passport” includes a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport, and



“safe country” means a country to which Part 2 of Schedule 3 applies.

- (8) A passport produced by or on behalf of a person is valid for the purposes of subsection (3)(b) if it—
  - (a) relates to the person by whom or on whose behalf it is produced,
  - (b) has not been altered otherwise than by or with the permission of the authority who issued it, and
  - (c) was not obtained by deception.
- (9) In subsection (4) a reference to an asylum claim or human rights claim shall be treated as including a reference to a claim of entitlement to remain in a country other than the United Kingdom made by reference to the rights that a person invokes in making an asylum claim or a human rights claim in the United Kingdom.
- (9A) In paragraph (c) of the definition of a “deciding authority” in subsection (7) the reference to the First-tier Tribunal includes a reference to the Upper Tribunal when acting under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007.
- (10) Regulations under subsection (7) specifying a manner of notification may, in particular—
  - (a) apply or refer to regulations under section 105 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (notice of immigration decisions);
  - (b) make provision similar to provision that is or could be made by regulations under that section;
  - (c) modify a provision of regulations under that section in its effect for the purpose of regulations under this section;
  - (d) provide for notice to be treated as received at a specified time if sent to a specified class of place in a specified manner.
- (11) Regulations under subsection (7) specifying a manner of notification—
  - (a) may make incidental, consequential or transitional provision,
  - (b) shall be made by statutory instrument, and
  - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) This section shall not prevent a deciding authority from determining not to believe a statement on the grounds of behaviour to which this section does not apply.

### **3. Immigration Rule 353 – Fresh claims and exceptional circumstances**

#### **Fresh Claims**

353. When a human rights or protection claim has been refused or withdrawn or treated as withdrawn under paragraph 333C of these Rules and any appeal relating to that claim is no longer pending, the decision maker will consider any further submissions and, if rejected, will then determine whether they amount to a fresh claim. The submissions will amount to a fresh claim if they are significantly different from the material that has previously been considered. The submissions will only be significantly different if the content:

- (i) had not already been considered; and
- (ii) taken together with the previously considered material, created a realistic prospect of success, notwithstanding its rejection. This paragraph does not apply to claims made overseas.

353A. Consideration of further submissions shall be subject to the procedures set out in these Rules. An applicant who has made further submissions shall not be removed before the Secretary of State has considered the submissions under paragraph 353 or otherwise.

#### **Exceptional Circumstances**

353B. Where further submissions have been made and the decision maker has established whether or not they amount to a fresh claim under paragraph 353 of these Rules, or in cases with no outstanding further submissions whose appeal rights have been exhausted and which are subject to a review, the decision maker will also have regard to the migrant’s:

- (i) character, conduct and associations including any criminal record and the nature of any offence of which the migrant concerned has been convicted;

- (ii) compliance with any conditions attached to any previous grant of leave to enter or remain and compliance with any conditions of temporary admission or immigration bail where applicable;
- (iii) length of time spent in the United Kingdom spent for reasons beyond the migrant's control after the human rights or asylum claim has been submitted or refused; in deciding whether there are exceptional circumstances which mean that removal from the United Kingdom is no longer appropriate. This paragraph does not apply to submissions made overseas. This paragraph does not apply where the person is liable to deportation.

**4. Immigration Rule 352A - Family Reunion Requirements for leave to enter or remain as the partner of a refugee**

352A. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the partner of a person granted refugee status are that:

- (i) the applicant is the partner of a person who currently has refugee status granted under the Immigration Rules in the United Kingdom; and
- (ii) the marriage or civil partnership did not take place after the person granted refugee status left the country of their former habitual residence in order to seek asylum or the parties have been living together in a relationship akin to marriage or a civil partnership which has subsisted for two years or more before the person granted refugee status left the country of their former habitual residence in order to seek asylum; and
- (iii) the relationship existed before the person granted refugee status left the country of their former habitual residence in order to seek asylum; and
- (iv) the applicant would not be excluded from protection by virtue of paragraph 334(iii) or (iv) of these Rules or Article 1F of the Refugee Convention if they were to seek asylum in their own right; and
- (v) each of the parties intends to live permanently with the other as their spouse or civil partner and the marriage is subsisting; and
- (vi) the applicant and their partner must not be within the prohibited degree of relationship; and
- (vii) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

**5. Immigration Rule 352D - Requirements for leave to enter or remain as the child of a refugee**

352D. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom in order to join or remain with the parent who currently has refugee status are that the applicant:

- (i) is the child of a parent who currently has refugee status granted under the Immigration Rules in the United Kingdom; and
- (ii) is under the age of 18; and
- (iii) is not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit; and
- (iv) was part of the family unit of the person granted asylum at the time that the person granted asylum left the country of their habitual residence in order to seek asylum; and
- (v) the applicant would not be excluded from protection by virtue of paragraph 334(iii) or (iv) of these Rules or Article 1F of the Refugee Convention if they were to seek asylum in their own right; and
- (vi) if seeking leave to enter, holds a valid United Kingdom entry clearance for entry in this capacity.

**6. Article 1(A), UN Convention Convention Relating to the Status of Refugees, 1951**

Article 1 - definition of the term "refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

- (1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization; Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;
- (2) [As a result of events occurring before 1 January 1951 and] owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

**7. Section 55, Borders, Citizenship and Immigration Act 2009**

- (1) The Secretary of State must make arrangements for ensuring that -
    - (a) the functions mentioned in sub-section (2) are discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom.
  - (2) The functions referred to in sub-section (1) are -
    - (a) any function of the Secretary of State in relation to immigration, asylum or nationality;
    - (b) any function conferred by or by virtue of the Immigration Acts on an Immigration Officer.
  - (3) A person exercising any of those functions must, in exercising the function, have regard to any guidance given to the person by the Secretary of State for the purpose of sub-section (1).
- AUTHOR NOTE: This provision was itself implemented into English law to comply with a provision of international law, Article 3(1) of the UN Convention on the Rights of the Child, 1989, which provides: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

**8. Immigration Rule 3390 – Internal Relocation**

3390. (i) The Secretary of State will not make:
- (a) a grant of refugee status if in part of the country of origin a person would not have a well founded fear of being persecuted, and the person can reasonably be expected to stay in that part of the country; or
  - (b) a grant of humanitarian protection if in part of the country of return a person would not face a real risk of suffering serious harm, and the person can reasonably be expected to stay in that part of the country.
- (ii) In examining whether a part of the country of origin or country of return meets the requirements in (i) the Secretary of State, when making a decision on whether to grant asylum or humanitarian protection, will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the person.
- (iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return.


**9. Section 7, Data Protection Act 1998 - right of access to personal data**

- (1) Subject to the following provisions of this section and to sections 8, 9 and 9A, an individual is entitled—
  - (a) to be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller,
  - (b) if that is the case, to be given by the data controller a description of—
    - (i) the personal data of which that individual is the data subject,
    - (ii) the purposes for which they are being or are to be processed, and
    - (iii) the recipients or classes of recipients to whom they are or may be disclosed,
  - (c) to have communicated to him in an intelligible form—
    - (i) the information constituting any personal data of which that individual is the data subject, and
    - (ii) any information available to the data controller as to the source of those data, and
  - (d) where the processing by automatic means of personal data of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his performance at work, his creditworthiness, his reliability or his conduct, has constituted or is likely to constitute the sole basis for any decision significantly affecting him, to be informed by the data controller of the logic involved in that decision-taking.
- (2) A data controller is not obliged to supply any information under subsection (1) unless he has received—
  - (a) a request in writing, and
  - (b) except in prescribed cases, such fee (not exceeding the prescribed maximum) as he may require.
- (3) Where a data controller—
  - (a) reasonably requires further information in order to satisfy himself as to the identity of the person making a request under this section and to locate the information which that person seeks, and
  - (b) has informed him of that requirement, the data controller is not obliged to comply with the request unless he is supplied with that further information.
- (4) Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the request unless—
  - (a) the other individual has consented to the disclosure of the information to the person making the request, or
  - (b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual.
- (5) In subsection (4) the reference to information relating to another individual includes a reference to information identifying that individual as the source of the information sought by the request; and that subsection is not to be construed as excusing a data controller from communicating so much of the information sought by the request as can be communicated without disclosing the identity of the other individual concerned, whether by the omission of names or other identifying particulars or otherwise.
- (6) In determining for the purposes of subsection (4)(b) whether it is reasonable in all the circumstances to comply with the request without the consent of the other individual concerned, regard shall be had, in particular, to—
  - (a) any duty of confidentiality owed to the other individual,
  - (b) any steps taken by the data controller with a view to seeking the consent of the other individual,
  - (c) whether the other individual is capable of giving consent, and
  - (d) any express refusal of consent by the other individual.
- (7) An individual making a request under this section may, in such cases as may be prescribed, specify that his request is limited to personal data of any prescribed description.

- (8) Subject to subsection (4), a data controller shall comply with a request under this section promptly and in any event before the end of the prescribed period beginning with the relevant day.
- (9) If a court is satisfied on the application of any person who has made a request under the foregoing provisions of this section that the data controller in question has failed to comply with the request in contravention of those provisions, the court may order him to comply with the request.
- (10) In this section—
  - “prescribed” means prescribed by the Secretary of State by regulations;
  - “the prescribed maximum” means such amount as may be prescribed;
  - “the prescribed period” means forty days or such other period as may be prescribed;
  - “the relevant day”, in relation to a request under this section, means the day on which the data controller receives the request or, if later, the first day on which the data controller has both the required fee and the information referred to in subsection (3).
- (11) Different amounts or periods may be prescribed under this section in relation to different cases.

## Appendix O – Copy of family reunion refusal decision from Meeting 1

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**UK Visas  
& Immigration**

GV51 (ROA)  
Rev 03/15

**NOTICE OF IMMIGRATION DECISION**

In compliance with the Immigration (Notices) Regulations 2003 made under section 105 of the Nationality, Immigration and Asylum Act 2002

**REFUSAL OF ENTRY CLEARANCE**

Post reference: **PRETORIA**

To: [REDACTED]

Date of Birth: [REDACTED] Nationality: **SUDAN**

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**Your Application**

You have applied for an entry clearance to the United Kingdom under Family Reunion. I have considered your application under paragraph 352A of the United Kingdom Immigration Rules. You can read these rules at:  
[www.gov.uk/government/collections/immigration-rules](http://www.gov.uk/government/collections/immigration-rules)

Guidance that explains the types of documents which, in addition to the application form, might give a visa applicant the best opportunity to show that their circumstances are as they have set out is available at:  
<https://www.gov.uk/check-uk-visa>

In assessing your individual application, it has not been necessary to interview you, but I have taken account of:

- your passport
- the supporting documents you provided.

I have used all the information provided by you to determine if the requirements of the Immigration Act have been met. In reaching my decision, which has been made on the balance of probabilities, I note the following points:

**The Decision**

- You have applied for entry clearance along with your 5 children to join your [REDACTED] who has been granted limited leave to remain as a refugee until [REDACTED]. In support of your application you have submitted 2 marriage contracts containing you and your sponsor's details stating that your marriage took place on [REDACTED]. However, note that these marriage contracts were dated [REDACTED] and [REDACTED]. These certificates were

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therefore issued 22 years after the date of marriage and as a result, these are not contemporaneous to the date of marriage. I am unclear as to why these marriage contracts were issued such a long time after your stated marriage date and just shortly before you submitted your application for entry clearance. I am therefore not satisfied that these documents are a true reflection that your marriage took place on \_\_\_\_\_ as claimed and you have not provided any other documentation such as wedding photographs to demonstrate your marriage took place on this date. I am therefore not satisfied that the documents submitted demonstrate that you were married to your sponsor prior to him leaving Sudan. Furthermore, the documents submitted do not demonstrate that you were living as part of a family unit with your sponsor prior to him leaving. I am therefore not satisfied that you are the spouse of a refugee in the United Kingdom or that you were part of their family unit, nor am I satisfied that you intend to live permanently with him or that your marriage is subsisting. I am therefore not satisfied that you meet the requirements of paragraph 352A (i)(ii) and (iv)

I have assessed your application with Human Rights concerns in mind. However given my concerns, I am satisfied that the decision to refusal is not disproportionate or unjustifiably harsh and is for legitimate reasons for fair and firm Immigration control and or the economic well being of the country.

I have also carefully considered your application in terms of Article 8 of the HRA. The right to family life is a qualified one which requires a balancing exercise and does not give an individual the right to choose the country in which to enjoy it. I have weighed up the extent of the possible interference with your family life against the legitimate need to maintain an effective immigration control and consider that any such interference is necessary and proportionate in order to maintain that control. I do not therefore consider that the decision to refuse you entry clearance constitutes a breach of the HRA in terms of Article 8.

Your application has been refused and the Health Surcharge payment will now be refunded. This will happen automatically and the refund will be made to the card used to pay the Health Surcharge.

If you make a fresh application or you appeal successfully against this decision, you may be required to make a fresh Health Surcharge payment.

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#### Your right of appeal

You are entitled to appeal against this decision under section 82(1) of the Nationality, Immigration and Asylum Act 2002. If you wish to appeal you must complete the attached IAF-6 Notice of Appeal form. An information sheet has also been provided. Should you require further advice or assistance please visit [www.gov.uk/immigration-asylum-tribunal/appeal-from-outside-the-uk](http://www.gov.uk/immigration-asylum-tribunal/appeal-from-outside-the-uk)

If you decide to appeal against the refusal of this application, the decision will be reviewed with your grounds of appeal and the supporting documents you provide. You are strongly advised to complete all sections of the form and submit all relevant documents with your Notice of Appeal, as it may be possible to resolve the points at issue without an appeal hearing.

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The completed Notice of Appeal form must arrive no later than **28 days** after the date you received this notice and you must make sure that it is signed and dated.

Entry Clearance Officer:

Date of refusal: 27 Jan 2016

Date sent to applicant:

How sent: [via VAC, postal service or courier]

If notice personally handed to you by an Entry Clearance Officer, please sign below:

Applicant's signature:

Date

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